

Secretary including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 6907 of this title, and any applicable State or regional waste management plan.

(d) Guidelines for obtaining program information from municipalities; availability of information, etc., to Congressional committees; annual reports to Congress; contents, etc.

(1) The Secretary shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Secretary to the House Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

(2) The Secretary shall annually submit a report to the Congress concerning the actions taken or not taken by the Secretary under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Secretary and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

(3) The annual reports required by this subsection shall be a part of the annual report required by section 5914 of this title, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science, Space, and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

(e) Transfer of part of program to other agency or authority

No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after February 25, 1978.

(f) Compliance by municipalities receiving financial assistance with Federal and State environmental, etc., laws and regulations, and licensing requirements

Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

(Pub. L. 93-577, § 20, as added Pub. L. 95-238, title IV, § 401, Feb. 25, 1978, 92 Stat. 84; amended Pub. L. 103-437, § 15(c)(9), Nov. 2, 1994, 108 Stat. 4592.)

AMENDMENTS

1994—Subsec. (d)(1), (3). Pub. L. 103-437 substituted “Committee on Science, Space, and Technology” for “Committee on Science and Technology”.

CHANGE OF NAME

Committee on Science, Space, and Technology of House of Representatives treated as referring to Committee on Science of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

“Secretary”, meaning Secretary of Energy, substituted for “Administrator” in subsecs. (b)(1), (5), (c)(1), and (d)(1), (2) and for “Energy Research and Development Administration” in subsec. (c)(2) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 577, 606, 607, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Energy Research and Development Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8838 of this title.

CHAPTER 75—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

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6008.	Employment of individuals with disabilities.
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CODIFICATION

The Developmental Disabilities Assistance and Bill of Rights Act, comprising this chapter, is title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, which was originally enacted by Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, at which time title I was known as the Mental Retardation Facilities Construction Act, and parts B and C of such title I were classified to subchapters I (§2661 *et seq.*) and II (§2670 *et seq.*), respectively, of chapter 33 of this title. Because of the extensive amendments, reorganization of the subject matter, and expansion of the Act by the acts summarized below, the Act is shown herein as having been added by Pub. L. 98-527, without reference to intervening amendments.

Part D of the Act was added by Pub. L. 90-170, §4, Dec. 4, 1967, 81 Stat. 528, and was classified to subchapter IIA (§2678 *et seq.*) of chapter 33 of this title. Part C of the Act was amended generally and the Act was reorganized and renamed the Developmental Disabilities Services and Facilities Construction Act, by Pub. L. 91-517, Oct. 30, 1970, 84 Stat. 1316.

Parts A, B, and D of the Act were amended generally and the Act was otherwise extensively amended and reorganized by Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 486, and was reclassified to this chapter (§6000 *et seq.*).

The Act was renamed the Developmental Disabilities Assistance and Bill of Rights Act and was amended and reorganized by Pub. L. 95-602, title V, Nov. 6, 1978, 92 Stat. 3003, and was subsequently amended generally and completely reorganized by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662.

EXECUTIVE ORDER NO. 11776

Ex. Ord. No. 11776, eff. Mar. 28, 1974, 39 F.R. 11865, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which continued the President's Committee on Mental Retardation with expanded membership and expanded responsibilities, was superseded by Ex. Ord. No. 12994, Mar. 21, 1996, 61 F.R. 13047, set out below.

EX. ORD. NO. 12994. PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Ex. Ord. No. 12994, Mar. 21, 1996, 61 F.R. 13047, provided:

The President's Committee on Mental Retardation, established by Executive Order No. 11280 [former 42 U.S.C. note prec. 2661] on May 11, 1966, as superseded by Executive Order No. 11776 on March 28, 1974, has organized national planning, stimulated development of plans, policies and programs, and advanced the concept of community participation in the field of mental retardation.

National goals have been established to:

- (1) promote full participation of people with mental retardation in their communities;
- (2) provide all necessary supports to people with mental retardation and their families for such participation;
- (3) reduce the occurrence and severity of mental retardation by one-half by the year 2010;
- (4) assure the full citizenship rights of all people with mental retardation, including those rights secured by such landmark statutes as the Americans with Disabilities Act of 1990, Public Law 101-336 (42 U.S.C. 12101 *et seq.*);

(5) recognize the right of all people with mental retardation to self-determination and autonomy, to be treated in a nondiscriminatory manner, and to exercise meaningful choice, with whatever supports are necessary to effectuate these rights;

(6) recognize the right of all people with mental retardation to enjoy a quality of life that promotes independence, self-determination, and participation as productive members of society; and

(7) promote the widest possible dissemination of information on models, programs, and services in the field of mental retardation.

The achievement of these goals will require the most effective possible use of public and private resources.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. *Committee Continued and Responsibilities Expanded.* The President's Committee on Mental Retardation (the "Committee"), with expanded membership and expanded responsibilities, is hereby continued in operation.

SEC. 2. *Composition of Committee.* (a) The Committee shall be composed of the following members:

- (1) The Secretary of Health and Human Services;
- (2) The Secretary of Education;
- (3) The Attorney General;
- (4) The Secretary of Labor;
- (5) The Secretary of Housing and Urban Development;
- (6) The Chief Executive Officer of the Corporation for National and Community Service (formerly ACTION);
- (7) The Commissioner of Social Security;
- (8) The Chair of the Equal Employment Opportunity Commission;
- (9) The Chairperson of the National Council on Disability;

(10) No more than 21 other members who shall be appointed to the Committee by the President. These citizen members shall consist of individuals who represent a broad spectrum of perspectives, experience, and expertise on mental retardation, and shall include self-advocates with mental retardation and members of families with a child or adult with mental retardation, and persons employed in either the public or the private sector. Except as the President may from time to time otherwise direct, appointees under this paragraph shall have two-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

(b) The President shall designate the Chair of the Committee from the 21 citizen members. The Chair shall advise and counsel the Committee and represent the Committee on appropriate occasions.

SEC. 3. *Functions of the Committee.* (a) The Committee shall provide such advice and assistance in the area of mental retardation as the President or Secretary of Health and Human Services may request, and particularly shall advise with respect to the following areas:

- (1) evaluating and monitoring the national efforts to establish appropriate policies and supports for people with mental retardation;
- (2) providing suggestions for improvement in the delivery of mental retardation services, including preventive services, the promulgation of effective and humane policies, and the provision of necessary supports;
- (3) identifying the extent to which various Federal and State programs achieve the national goals in mental retardation described in the preamble to this order and have a positive impact on the lives of people with mental retardation;
- (4) facilitating liaison among Federal, State, and local governments, foundations, nonprofit organizations, other private organizations, and citizens concerning mental retardation;
- (5) developing and disseminating such information as will tend to reduce the incidence and severity of mental retardation; and

(6) promoting the concept of community participation and development of community supports for citizens with mental retardation.

(b) The Committee shall make an annual report, through the Secretary of Health and Human Services, to the President concerning mental retardation. Such additional reports may be made as the President may require or as the Committee may deem appropriate.

SEC. 4. *Cooperation by Other Agencies.* To assist the Committee in providing advice to the President, Federal departments and agencies requested to do so by the Committee shall designate liaison officers to the Committee. Such officers shall, on request by the Committee, and to the extent permitted by law, provide the Committee with information on department and agency programs that do contribute to or could contribute to achievement of the President's goals in the field of mental retardation.

SEC. 5. *Administration.* (a) The Department of Health and Human Services shall, to the extent permitted by law, provide the Committee with necessary staff, administrative services, and facilities and funding.

(b) Each member of the Committee, except any member who receives other compensation from the United States Government, may receive compensation for each day he or she is engaged in the work of the Committee, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701-5707), for persons employed intermittently in the Government service. Committee members with disabilities may be compensated for attendant expenses, consistent with Government procedures and practices.

(c) The Secretary of Health and Human Services shall perform such other functions with respect to the Committee as may be required by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), except that of reporting to the Congress.

SEC. 6. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

SEC. 7. *Superseded Authority.* Executive Order No. 11776 is hereby superseded.

WILLIAM J. CLINTON.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Term of the President's Committee on Mental Retardation extended until Dec. 31, 1982, by Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1984, by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1985, by Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1987, by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1989, by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1991, by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out as a

note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1993, by Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1995, by Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(k), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Committee on Mental Retardation extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EXECUTIVE ORDER NO. 11973

Ex. Ord. No. 11973, Feb. 17, 1977, 42 F.R. 10677, which related to the President's Commission on Mental Health, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 217a-1, 300a-7, 3013 of this title; title 20 section 1444; title 29 sections 762, 781, 794e, 3012; title 40 App. section 202.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3035f, 3058g of this title.

§ 6000. Findings, purpose, and policy

(a) Findings

The Congress finds that—

(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

(2) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

(6) individuals with developmental disabilities often require lifelong specialized services

and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports;

(9) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this chapter, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities; and

(10) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

(A) make informed choices and decisions;

(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

(C) pursue meaningful and productive lives;

(D) contribute to their family, community, State, and Nation;

(E) have interdependent friendships and relationships with others; and

(F) achieve full integration and inclusion in society, in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual.

(b) Purpose

The purpose of this chapter is to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under subsection (c)(2) of this section, a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

(3) support to university affiliated programs to provide interdisciplinary preservice prepa-

ration of students and fellows, community service activities, and the dissemination of information and research findings; and

(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection and advocacy systems and university affiliated programs, and support other nationally significant activities.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this chapter shall be carried out in a manner consistent with the principles that—

(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve independence, productivity, and integration and inclusion;

(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals;

(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;

(6) recruitment efforts within developmental disabilities at the level of preservice training, community training, practice, administration and policymaking must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;

(7) with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

(8) individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and

make contributions to their families, community, State, and Nation.

(Pub. L. 88-164, title I, §101, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662; amended Pub. L. 100-146, title I, §101, Oct. 29, 1987, 101 Stat. 840; Pub. L. 101-496, §3, Oct. 31, 1990, 104 Stat. 1191; Pub. L. 103-230, title I, §102, Apr. 6, 1994, 108 Stat. 285.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(9), (b), and (c), was in the original “this Act” and was translated as reading “this title”, meaning title I of Pub. L. 88-164, known as the Developmental Disabilities Assistance and Bill of Rights Act, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6000, Pub. L. 88-164, title I, §101, as added Pub. L. 95-602, title V, §502, Nov. 6, 1978, 92 Stat. 3004, set out Congressional statement of findings and purpose, prior to the general amendment of this chapter by Pub. L. 98-527.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally, substituting provisions relating to congressional findings, purpose, and policy for provisions relating to congressional findings and purposes.

1990—Subsec. (a)(1). Pub. L. 101-496, §3(1)(A), substituted “in 1990 there are more than three” for “there are more than two”.

Subsec. (a)(7) to (9). Pub. L. 101-496, §3(1), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

Subsec. (b)(3) to (8). Pub. L. 101-496, §3(2), added pars. (3) to (7) and redesignated former par. (3) as (8).

1987—Pub. L. 100-146 amended section generally, substituting subsec. (a), consisting of pars. (1) to (8), for former subsec. (a), consisting of pars. (1) to (5), and substituting subsec. (b), consisting of pars. (1) to (3), for former subsec. (b), consisting of pars. (1) and (2).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 601 of Pub. L. 100-146 provided that: “This Act, and the amendments made by this Act [see Short Title of 1987 Amendment note below], shall become effective on October 1, 1987.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-183, §1, Aug. 6, 1996, 110 Stat. 1694, provided that: “This Act [amending sections 6030, 6043, 6066, and 6083 of this title] may be cited as the ‘Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1996’.”

SHORT TITLE OF 1994 AMENDMENT

Section 1(a) of Pub. L. 103-230 provided that: “This Act [enacting sections 6025a, 6065, and 6066 of this title, amending this section and sections 6001, 6003, 6005 to 6009, 6021, 6022, 6024, 6025, 6026, 6027, 6029, 6030, 6041 to 6043, 6061 to 6064, and 6081 to 6083 of this title, repealing sections 6002, 6004, 6023, and 6028 of this title, enacting provisions set out as a note under section 6025 of this title, and amending provisions set out as a note under this section] may be cited as the ‘Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994’.”

SHORT TITLE OF 1990 AMENDMENT

Section 1 of Pub. L. 101-496 provided that: “This Act [amending this section and sections 6001, 6002, 6006 to 6009, 6021, 6022, 6024, 6025, 6030, 6042, 6043, 6062 to 6064, and 6081 to 6083 of this title] may be cited as the ‘Developmental Disabilities Assistance and Bill of Rights Act of 1990’.”

SHORT TITLE OF 1987 AMENDMENT

Section 1 of Pub. L. 100-146 provided that: “This Act [amending this section and sections 6001, 6006, 6021 to

6025, 6027, 6030, 6042, 6043, 6061 to 6064, and 6081 to 6083 of this title, and enacting provisions set out as a note above] may be cited as the ‘Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.’”

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98-527 provided: “That this Act [enacting this chapter] may be cited as the ‘Developmental Disabilities Act of 1984.’”

SHORT TITLE

Section 1 of Pub. L. 94-103 provided that: “This Act [see Codification note preceding this section] may be cited as the ‘Developmentally Disabled Assistance and Bill of Rights Act.’”

Section 1 of Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended, provided that: “This Act [enacting this chapter and subchapter III (§2689 et seq.) of chapter 33 of this title, and enacting provisions set out as notes under this section and section 2689 of this title] may be cited as the ‘Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.’”

Pub. L. 88-164, title I, §101, as added by Pub. L. 94-103, title I, §125, which provided that: “This title [this chapter] may be cited as the ‘Developmental Disabilities Services and Facilities Construction Act.’”, was struck out by Pub. L. 95-602, title V, §502.

Pub. L. 88-164, title I, §100, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, and amended by Pub. L. 103-230, title I, §101(c), Apr. 6, 1994, 108 Stat. 285, provided that: “This title [enacting this chapter] may be cited as the ‘Developmental Disabilities Assistance and Bill of Rights Act.’”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6021, 6024 of this title.

§ 6001. Definitions

For purposes of this chapter:

(1) American Indian Consortium

The term “American Indian Consortium” means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

(2) Assistive technology device

The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

(3) Assistive technology service

The term “assistive technology service” means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual’s customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive tech-

nology devices by an individual with a developmental disability;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

(4) Child development activities

The term “child development activities” means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

(5) Community living activities

The term “community living activities” means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

(6) Community supports

The term “community supports” means activities, services, supports, and other assistance designed to—

(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

(B) develop local networks that can provide informal support; and

(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

(7) Culturally competent

The term “culturally competent” means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

(8) Developmental disability

The term “developmental disability” means a severe, chronic disability of an individual 5 years of age or older that—

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the individual attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity—

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

(9) Early intervention services

The term “early intervention services” means services provided to infants, toddlers, young children, and their families to—

(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

(10) Employment activities

The term “employment activities” means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

(11) Family support service

The term “family support service” means services, supports, and other assistance provided to families with members with developmental disabilities that are designed to—

(A) strengthen the family's role as primary caregiver;

(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

(C) reunite families with members who have been placed out of the home, whenever possible.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications,

and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

(12) Federal priority areas

The term “Federal priority areas” means community living activities, employment activities, child development activities, and system coordination and community education activities.

(13) Independence

The term “independence” means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

(14) Individual supports

The term “individual supports” means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

(A) enable such individual to control such individual's environment, permitting the most independent life possible;

(B) prevent placement into a more restrictive living arrangement than is necessary; and

(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

(15) Integration and inclusion

The term “integration and inclusion”, with respect to individuals with developmental disabilities, means—

(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

(D) having friendships and relationships with individuals and families of their own choosing.

(16) Nonprofit

The term “nonprofit” means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(17) Other organizations

The term “other organizations” means those organizations that are not State agencies or nonprofit agencies, except such organizations

may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

(18) Personal assistance services

The term “personal assistance services” means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual’s control in life and ability to perform everyday activities on or off such job.

(19) Prevention

The term “prevention” means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

(C) mitigate against the effects of developmental disabilities throughout the individual’s lifespan.

(20) Productivity

The term “productivity” means—

(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

(B) engagement in work that contributes to a household or community.

(21) Protection and advocacy system

The term “protection and advocacy system” means a protection and advocacy system established in accordance with section 6042 of this title.

(22) Rehabilitation technology

The term “rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(23) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(24) Service coordination activities

The term “service coordination activities” (also referred to as “case management activities”) means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

(25) State

The term “State”, except as provided in section 6065 of this title, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(26) State Developmental Disabilities Council

The term “State Developmental Disabilities Council” means a Council established under section 6024 of this title.

(27) State priority area

The term “State priority area” means priority area activities in an area considered essential by the State Developmental Disabilities Council.

(28) Supported employment

The term “supported employment” means competitive work in integrated work settings for individuals with developmental disabilities—

(A)(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

(29) System coordination and community education activities

The term “system coordination and community education activities” means activities that—

(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

(C) enhance individual, family, and citizen participation and involvement; and

(D) develop and support coalitions and individuals through training in self-advocacy,

educating policymakers, and citizen leadership skills.

(30) University affiliated program

The term “university affiliated program” means a university affiliated program established under section 6062 of this title.

(31) Unserved and underserved

The term “unserved and underserved” includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(Pub. L. 88-164, title I, §102, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2663; amended Pub. L. 100-146, title I, §102, Oct. 29, 1987, 101 Stat. 841; Pub. L. 101-496, §4, Oct. 31, 1990, 104 Stat. 1192; Pub. L. 103-230, title I, §103, Apr. 6, 1994, 108 Stat. 288.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (25), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 6001, Pub. L. 88-164, title I, §102, as added Pub. L. 94-103, title I, §125, Oct. 4, 1975, 89 Stat. 496; amended Pub. L. 95-602, title V, §503(a), (b)(1), (c)-(f), Nov. 6, 1978, 92 Stat. 3004-3006; Pub. L. 98-221, title III, §301, Feb. 22, 1984, 98 Stat. 34, defined terms for purposes of this chapter, prior to the general amendment of this chapter by Pub. L. 98-527.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally, alphabetizing entries, adding provisions defining “American Indian Consortium”, “culturally competent”, “integration and inclusion”, “other organizations”, “personal assistance services”, “rehabilitation technology”, “service coordination activities”, “State Developmental Disabilities Council”, and “unserved and underserved”, and striking out provisions defining “assistive technology”, “case management activities”, “construction”, “integration”, “priority area activities”, “satellite center”, “State Planning Council”, and “title”.

1990—Par. (5). Pub. L. 101-496, §4(1), inserted “5 years of age or older” after “of a person” in introductory provision, substituted semicolon for period at end of subpar. (E), and inserted provision at end relating to exception for infants and young children.

Par. (8)(A). Pub. L. 101-496, §4(2), (3), struck out “and” at end of cl. (i), inserted “and integrated employment,” after “activities” and substituted “citizens without disabilities” for “nondisabled citizens” in cl. (ii), added cls. (iii) and (iv), and substituted “citizens without disabilities” for “nondisabled citizens” in closing provisions.

Par. (8)(B). Pub. L. 101-496, §4(2), (4), struck out “or in home-like settings” after “homes” and substituted “citizens without disabilities” for “nondisabled citizens”.

Par. (9). Pub. L. 101-496, §4(5), which directed the substitution of “special adaptation of generic services or specialized services” for “specialized services or special

adaptation of generic services”, was executed by making the substitution for “specialized services or special adaptations of generic services” wherever appearing in subpars. (A) to (E) to reflect the probable intent of Congress.

Par. (9)(B)(iv). Pub. L. 101-496, §4(6), substituted “approaches, strategies” for “models” and inserted “Federal, State and local” before “policymakers”.

Par. (10). Pub. L. 101-496, §4(7), substituted “system coordination and community education” for “case management”.

Par. (12). Pub. L. 101-496, §4(8), substituted “, individual, family and community supports” for “and family support services”.

Par. (17)(B). Pub. L. 101-496, §4(9), inserted “and their families” after “disabilities” in cls. (i) and (ii).

Par. (21). Pub. L. 101-496, §4(10), added par. (21) and struck out former par. (21) which defined term “family support services”.

Par. (22). Pub. L. 101-496, §4(11), inserted at end “Such term includes assistive technology devices and assistive technology service.”

Pars. (24) to (30). Pub. L. 101-496, §4(12), added pars. (24) to (30).

1987—Par. (2). Pub. L. 100-146, §102(1), added par. (2) and struck out former par. (2) which defined “facility for persons with developmental disabilities”.

Par. (3). Pub. L. 100-146, §102(1), (2), redesignated par. (4) as (3) and struck out former par. (3) which defined “nonprofit facility for persons with developmental disabilities”, “nonprofit private institution of higher learning”, and “nonprofit private agency or organization”.

Par. (4). Pub. L. 100-146, §102(4), redesignated par. (6) as (4). Former par. (4) redesignated (3).

Par. (5). Pub. L. 100-146, §102(3), (4), redesignated par. (7) as (5) and struck out former par. (5) which defined “cost of construction”.

Pars. (6), (7). Pub. L. 100-146, §102(4), redesignated pars. (8) and (9) as (6) and (7), respectively. Former pars. (6) and (7) redesignated (4) and (5), respectively.

Par. (8). Pub. L. 100-146, §102(5), redesignated par. (10) as (8) and substituted “nondisabled” for “nonhandicapped” in three places. Former par. (8) redesignated (6).

Pars. (9), (10). Pub. L. 100-146, §102(8), added pars. (9) and (10). Former pars. (9) and (10) redesignated (7) and (8), respectively.

Par. (11). Pub. L. 100-146, §102(6), (8), added par. (11) and struck out former par. (11) which defined “services for persons with developmental disabilities”.

Pars. (12) to (16). Pub. L. 100-146, §102(8), added pars. (12) to (16). Former pars. (12) to (15) redesignated (17) to (20), respectively.

Par. (17). Pub. L. 100-146, §102(7), (9)–(11), redesignated par. (12) as (17), and in subpar. (A), substituted “programs” for “facilities” in cl. (i), “program or programs” for “facility or facilities” in cl. (ii), and “paragraph (18)” for “paragraph (13)” in cl. (iii), and in subpar. (B), substituted “programs” for “facilities” in introductory provisions.

Par. (18). Pub. L. 100-146, §102(7), (12)–(15), redesignated par. (13) as (18), in introductory provisions, substituted “affiliated program” for “affiliated facility” and “program operated by a public or nonprofit private entity” for “public or nonprofit facility”, in subpar. (A), introductory provisions, inserted “, including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers,” and substituted “a facility” for “the facility”.

Pars. (19), (20). Pub. L. 100-146, §102(7), redesignated pars. (14) and (15) as (19) and (20), respectively.

Pars. (21) to (23). Pub. L. 100-146, §102(16), added pars. (21) to (23).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437a, 1471, 3035n, 6024, 6042, 6862, 8013, 9877, 11382 of this title; title 25 section 4103; title 29 section 794e.

§ 6002. Repealed. Pub. L. 103–230, title I, § 104, Apr. 6, 1994, 108 Stat. 293

Section, Pub. L. 88–164, title I, § 103, as added Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2667; amended Pub. L. 101–496, § 5, Oct. 31, 1990, 104 Stat. 1194, related to Federal share of costs of projects under subchapters II and IV of this chapter.

A prior section 6002, Pub. L. 88–164, title I, § 103, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498, set out provisions relating to Federal share, prior to the general amendment of this chapter by Pub. L. 98–527.

§ 6003. Records and audits

(a) Records

Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including—

(1) records which fully disclose—

(A) the amount and disposition by such recipient of the proceeds of such assistance;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(C) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(2) such other records as will facilitate an effective audit.

(b) Access

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this chapter that are pertinent to such assistance.

(Pub. L. 88–164, title I, § 104, as added Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2667; amended Pub. L. 103–230, title I, § 105, Apr. 6, 1994, 108 Stat. 293.)

PRIOR PROVISIONS

A prior section 6003, Pub. L. 88–164, title I, § 104, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498, set forth provisions relating to State control of operations, prior to the general amendment of this chapter by Pub. L. 98–527. See section 6005 of this title.

AMENDMENTS

1994—Pub. L. 103–230, § 105(a), substituted “audits” for “audit” in section catchline.

Subsec. (a). Pub. L. 103–230, § 105(b)(1), inserted heading, substituted “including—” for “including”, realigned margins of pars. (1) and (2), substituted “disclose—” for “disclose” in par. (1), realigned margins of subpars. (A) to (C), and directed the substitution of a semicolon for a comma wherever appearing which was executed to par. (1) to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 103–230, § 105(b)(2), inserted heading.

§ 6004. Repealed. Pub. L. 103–230, title I, § 106, Apr. 6, 1994, 108 Stat. 293

Section, Pub. L. 88–164, title I, § 105, as added Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2667, related to recovery

of Federal share of costs of facilities constructed under subchapters II and IV of this chapter under certain conditions.

A prior section 6004, Pub. L. 88–164, title I, § 105, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498, related to records and audits, prior to the general amendment of this chapter by Pub. L. 98–527. See section 6003 of this title.

§ 6005. State control of operations

Except as otherwise specifically provided, nothing in this chapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any programs, services, and supports for individuals with developmental disabilities with respect to which any funds have been or may be expended under this chapter.

(Pub. L. 88–164, title I, § 106, as added Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2668; amended Pub. L. 103–230, title I, § 107, Apr. 6, 1994, 108 Stat. 293.)

PRIOR PROVISIONS

A prior section 6005, Pub. L. 88–164, title I, § 106, as added Pub. L. 94–103, title I, § 125, Oct. 4, 1975, 89 Stat. 498, related to employment of handicapped individuals, prior to the general amendment of this chapter by Pub. L. 98–527. See section 6008 of this title.

AMENDMENTS

1994—Pub. L. 103–230 reenacted section catchline without change, and in text substituted “programs, services, and supports for individuals” for “facility for persons”.

§ 6006. Reports

(a) Developmental Disabilities Council reports

By January 1 of each year, each State Developmental Disabilities Council shall prepare and transmit to the Secretary a report of activities carried out during the preceding fiscal year with funds paid to the State under subchapter II of this chapter for such fiscal year. Each report shall be in a form prescribed by the Secretary by regulation and shall contain—

(1) a description of activities and accomplishments;

(2) a comparison of accomplishments with the goals, objectives, and proposed activities specified in the State plan submitted under section 6022 of this title for such fiscal year;

(3) an accounting of the manner in which funds paid to a State under subchapter II of this chapter for a fiscal year were expended;

(4) a description of the State Developmental Disabilities Council’s response to significant actions taken by the State with respect to any intermediate care facility for the mentally retarded in such State, and with respect to annual survey reports prepared pursuant to section 1396a(a)(31) of this title and correction or reduction plans prepared pursuant to section 1396r–3 of this title;

(5) a description of—

(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals

with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

(C) a summary of actions taken to improve access and services for unserved and underserved groups;

(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.

(b) Protection and advocacy system reports

By January 1 of each year, each protection and advocacy system established in a State pursuant to subchapter III of this chapter shall prepare and transmit to the Secretary a report which describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used.

(c) Secretary reports

(1) In general

By July 1 of each year the Secretary shall prepare and transmit to the President, the Congress, and the National Council on Disability a report which describes—

(A) the activities and accomplishments of programs supported under subchapters II, III, IV, and V of this chapter;

(B) the progress made in States in improving the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities and any activities or services needed to improve such independence, productivity, and integration and inclusion;

(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

(iii) a summary of actions taken to improve access and services for unserved and underserved groups;

(D) the significant Federal policies that impact on the ability of States to address the needs of individuals with developmental

disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

(E) the number of meetings held by the interagency committee established under section 6007(b) of this title during the period for which the report is made, which agencies were represented at each such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.

(2) Inclusion of Council and system information

In preparing the report required by this subsection, the Secretary shall include and analyze information submitted in the reports required under subsections (a) and (b) of this section.

(Pub. L. 88-164, title I, §107, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2668; amended Pub. L. 100-146, title I, §103, Oct. 29, 1987, 101 Stat. 844; Pub. L. 101-496, §6, Oct. 31, 1990, 104 Stat. 1194; Pub. L. 103-230, title I, §108, Apr. 6, 1994, 108 Stat. 294.)

PRIOR PROVISIONS

A prior section 6006, Pub. L. 88-164, title I, §107, as added Pub. L. 94-103, title I, §125, Oct. 4, 1975, 89 Stat. 499, related to recovery of expenditures under certain conditions and liens, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6004 of this title.

AMENDMENTS

1994—Pub. L. 103-230, §108(a), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103-230, §108(b)(1)(A), inserted heading and in introductory provisions substituted “each State Developmental Disabilities Council” for “the State Planning Council of each State”, “a report of activities” for “a report concerning activities”, and “Each report” for “Each such report”.

Subsec. (a)(1). Pub. L. 103-230, §108(b)(1)(B), substituted “description of activities and accomplishments” for “description of such activities and the accomplishments resulting from such activities”.

Subsec. (a)(2). Pub. L. 103-230, §108(b)(1)(C), substituted “comparison of accomplishments” for “comparison of such accomplishments” and struck out “by the State” after “activities specified”.

Subsec. (a)(4). Pub. L. 103-230, §108(b)(1)(D), substituted “State Developmental Disabilities Council’s” for “State Planning Council’s”, “annual survey reports prepared pursuant to section 1396a(a)(31) of this title and correction or reduction plans” for “each annual survey report prepared pursuant to section 1396a(a)(31)(C) of this title and each correction or reduction plan”, and semicolon for “; and”.

Subsec. (a)(5) to (7). Pub. L. 103-230, §108(b)(1)(E), (F), added pars. (5) to (7) and struck out former par. (5) which read as follows: “a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, advocacy for, and other actions on behalf of and with persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, particularly unserved and underserved groups, including any other subpopulation of persons with developmental disabilities (including minorities), and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified.”

Subsec. (b). Pub. L. 103-230, §108(b)(2), inserted heading and inserted in text before period at end

“, including a description of the system’s priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used”.

Subsec. (c). Pub. L. 103-230, §108(b)(3)(C), inserted heading.

Subsec. (c)(1). Pub. L. 103-230, §108(b)(3)(B), (D), inserted heading and realigned margin.

Subsec. (c)(1)(A). Pub. L. 103-230, §108(b)(3)(A), realigned margin.

Subsec. (c)(1)(B). Pub. L. 103-230, §108(b)(3)(A), (E)(i), substituted “integration and inclusion” for “integration” in two places and “individuals” for “persons” and realigned margin.

Subsec. (c)(1)(C). Pub. L. 103-230, §108(b)(3)(E)(ii), added subpar. (C) and struck out former subpar. (C) which read as follows: “the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, advocacy for, and other actions on behalf of, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, particularly unserved or underserved groups, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council has identified under sections 6022(b)(3) and 6022(f) of this title, and a summary of actions taken to improve access to services for such groups;”.

Subsec. (c)(1)(D). Pub. L. 103-230, §108(b)(3)(E)(iii), substituted “individuals” for “persons”.

Subsec. (c)(2). Pub. L. 103-230, §108(b)(3)(B), (F), inserted heading and in text substituted “include and analyze” for “use and include”, struck out “to the Secretary” after “information submitted”, and realigned margins.

1990—Subsec. (a)(4). Pub. L. 101-496, §6(1)(A), substituted “any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1396a(a)(31)(C) of this title and each correction or reduction plan prepared pursuant to section 1396r-3 of this title” for “each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1396a(a)(31)(B) of this title with respect to any intermediate care facility for the mentally retarded in such State”.

Subsec. (a)(5). Pub. L. 101-496, §6(1)(B), substituted “advocacy for, and other actions on behalf of and with” for “and advocacy for,”, “impairments, particularly unserved and underserved groups,” for “impairments,”, and “, and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified” for “that the State Planning Council may identify under sections 6022(b)(3) and 6022(f) of this title”.

Subsec. (c)(1). Pub. L. 101-496, §6(2), substituted “July” for “April” and “Disability” for “the Handicapped”.

Subsec. (c)(1)(C). Pub. L. 101-496, §6(3), substituted “advocacy for, and other actions on behalf of” for “and advocacy for,”, “impairments, particularly unserved or underserved groups,” for “impairments,”, and “has identified” for “may identify” and inserted “, and a summary of actions taken to improve access to services for such groups” after “of this title”.

1987—Subsec. (a)(4), (5). Pub. L. 100-146, §103(a), added pars. (4) and (5).

Subsec. (c)(1)(C) to (E). Pub. L. 100-146, §103(b), added subpars. (C) to (E).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10824 of this title.

§ 6007. Responsibilities of Secretary

(a) Regulations

The Secretary, not later than one hundred eighty days after the date of enactment of any Act amending the provisions of this chapter, shall promulgate such regulations as may be required for the implementation of such amendments.

(b) Interagency committee

Within 90 days after October 19, 1984, the Secretary of Health and Human Services and the Secretary of Education shall establish an interagency committee composed of representatives of the Administration on Developmental Disabilities, the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration, of the Department of Health and Human Services, the Office of Special Education and Rehabilitative Services of the Department of Education, the Department of Labor, and such other Federal departments and agencies as the Secretary of Health and Human Services and the Secretary of Education consider appropriate. Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for persons with developmental disabilities. Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.

(Pub. L. 88-164, title I, §108, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101-496, §7, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103-230, title I, §109, Apr. 6, 1994, 108 Stat. 296.)

PRIOR PROVISIONS

A prior section 6007, Pub. L. 88-164, title I, §108, formerly §133, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1318, and renumbered and amended Pub. L. 94-103, title I, §126(a), Oct. 4, 1975, 89 Stat. 499, established National Advisory Council on Services and Facilities for Developmentally Disabled and provided for membership, terms of office, compensation and traveling expenses, and duties and functions, prior to repeal by Pub. L. 95-602, title V, §504(a), Nov. 6, 1978, 92 Stat. 3006.

AMENDMENTS

1994—Pub. L. 103-230, §109(a), reenacted section catchline without change.

Subsec. (a). Pub. L. 103-230, §109(b)(1), inserted heading.

Subsec. (b). Pub. L. 103-230, §109(b)(2), inserted heading and substituted “Within 90 days” for “Within ninety days” and “Administration on Developmental Disabilities,” for “Administration for Developmental Disabilities”.

1990—Subsec. (b). Pub. L. 101-496 inserted “the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,” after “Developmental Disabilities” and inserted sentences at end requiring each meeting be open to the public and notice of each meeting be published in the Federal Register not later than 14 days before the date of the meeting.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6006 of this title.

§ 6008. Employment of individuals with disabilities

As a condition of providing assistance under this chapter, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] that govern employment—

- (1) by State rehabilitation agencies and community rehabilitation programs; and
- (2) under Federal contracts and subcontracts.

(Pub. L. 88-164, title I, §109, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101-496, §8, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103-230, title I, §110, Apr. 6, 1994, 108 Stat. 296.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 6008, Pub. L. 88-164, title I, §109, formerly §139, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; renumbered §109 and amended Pub. L. 94-103, title I, §127, Oct. 4, 1975, 89 Stat. 500; Pub. L. 95-602, title V, §505, Nov. 6, 1978, 92 Stat. 3007, related to promulgation of regulations, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6007(a) of this title.

AMENDMENTS

1994—Pub. L. 103-230, substituted “individuals with disabilities” for “handicapped individuals” in section catchline and in text substituted “individuals with disabilities” for “handicapped individuals”, “Rehabilitation Act of 1973” for “Rehabilitation Act of”, and “that govern employment—

- “(1) by State rehabilitation agencies and community rehabilitation programs; and
 - “(2) under Federal contracts and subcontracts.”
- for “which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.”

1990—Pub. L. 101-496 struck out “1973” after “Rehabilitation Act of”.

§ 6009. Rights of individuals with developmental disabilities

Congress makes the following findings respecting the rights of individuals with developmental disabilities:

- (1) Individuals with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.
- (2) The treatment, services, and habilitation for an individual with developmental disabilities should be designed to maximize the developmental potential of the individual and should be provided in the setting that is least restrictive of the individual's personal liberty.
- (3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for individuals with developmental disabilities that—

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such individuals; or

(B) does not meet the following minimum standards:

(i) Provision of a nourishing, well-balanced daily diet to the individuals with developmental disabilities being served by the program.

(ii) Provision to such individuals of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such individuals unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such individuals and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such individuals.

(v) Permission for close relatives of such individuals to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for individuals with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving individuals in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on June 3, 1988, as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for individuals with developmental disabilities, which assure that care is appropriate to the needs of the individuals being served by such programs, assure that the individuals admitted to facilities of such programs are individuals whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the individuals served by the programs.

The rights of individuals with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all individuals.

(Pub. L. 88-164, title I, §110, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2669; amended Pub. L. 101-496, §9, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103-230, title I, §111, Apr. 6, 1994, 108 Stat. 296.)

PRIOR PROVISIONS

A prior section 6009, Pub. L. 88-164, title I, §110, as added Pub. L. 94-103, title I, §128, Oct. 4, 1975, 89 Stat. 501; amended Pub. L. 95-602, title V, §§504(b)(1), 506, Nov. 6, 1978, 92 Stat. 3006, 3007; Pub. L. 96-32, §3(b), July 10, 1979, 93 Stat. 82, set forth provisions respecting development, etc., of evaluation system, prior to repeal by Pub. L. 97-35, title IX, §912(a), Aug. 13, 1981, 95 Stat. 563.

Prior sections 6010 to 6012 were omitted in the general amendment of this chapter by Pub. L. 98-527.

Section 6010, Pub. L. 88-164, title I, §111, as added Pub. L. 94-103, title II, §201, Oct. 4, 1975, 89 Stat. 502; amended Pub. L. 95-602, title V, §507, Nov. 6, 1978, 92 Stat. 3007, set forth Congressional findings respecting rights of the developmentally disabled. See section 6009 of this title.

Section 6011, Pub. L. 88-164, title I, §112, as added Pub. L. 94-103, title II, §202, Oct. 4, 1975, 89 Stat. 503; amended Pub. L. 95-602, title V, §514(a), Nov. 6, 1978, 92 Stat. 3016, related to habilitation plans. See section 6023 of this title.

Section 6012, Pub. L. 88-164, title I, §113, as added Pub. L. 94-103, title II, §203, Oct. 4, 1975, 89 Stat. 504; amended Pub. L. 95-602, title V, §508, Nov. 6, 1978, 92 Stat. 3007; Pub. L. 97-35, title IX, §911(a), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98-221, title III, §302, Feb. 22, 1984, 98 Stat. 35, related to protection and advocacy of rights of persons with developmental disabilities. See section 6042(a) of this title.

AMENDMENTS

1994—Pub. L. 103-230, §111(a), substituted section catchline for former section catchline.

Pub. L. 103-230, §111(b)(1), (6), substituted “individuals” for “persons” in introductory provisions and in two places in closing provisions.

Par. (1). Pub. L. 103-230, §111(b)(2), substituted “Individuals” for “Persons”.

Par. (2). Pub. L. 103-230, §111(b)(3), substituted “an individual” for “a person”, “the individual” for “the person”, and “the individual’s” for “the person’s”.

Pars. (3), (4). Pub. L. 103-230, §111(b)(4), (5), substituted “individuals” for “persons” wherever appearing.

1990—Par. (4)(A). Pub. L. 101-496 substituted “June 3, 1988” for “January 17, 1974 (39 Fed. Reg. pt. II)”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6022, 6063, 6082 of this title.

SUBCHAPTER II—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6006, 6042, 6081, 6082, 6083, 14403 of this title.

§ 6021. Purpose

The purpose of this subchapter is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under section 6000(c)(2) of this title, the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.

(Pub. L. 88-164, title I, §121, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2670; amended

Pub. L. 100-146, title II, §201(a), Oct. 29, 1987, 101 Stat. 845; Pub. L. 101-496, §10, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 103-230, title II, §202, Apr. 6, 1994, 108 Stat. 297.)

PRIOR PROVISIONS

A prior section 121 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 486; amended Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008, related generally to demonstration and training grants and was classified to section 6031 of this title, prior to the general amendment of this chapter by Pub. L. 98-527.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally. Prior to amendment, section read as follows: “The purpose of this subchapter is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities and their families through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.”

1990—Pub. L. 101-496 inserted “and their families” before “through the conduct of”.

1987—Pub. L. 100-146 amended section generally. Prior to amendment, section read as follows: “The purpose of this subchapter is to provide payments to States to plan for, and to conduct, activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6024 of this title.

§ 6022. State plan

(a) In general

Any State desiring to take advantage of this subchapter shall have a State plan submitted to, and approved by, the Secretary under this section.

(b) Planning cycle

The plan under subsection (a) of this section shall be reviewed annually and revised at least once every 3 years.

(c) State plan requirements

In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

(1) State Council

The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 6024 of this title and describe the membership of such Council.

(2) Designated State agency

The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 6024(d) of this title.

(3) Comprehensive review and analysis

The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

(iii) an analysis of the barriers that impede full participation of members of underserved and underserved groups;

(iv) consideration of the report conducted pursuant to section 6024(e) of this title;

(v) consideration of the data collected by the State educational agency under section 1418 of title 20;

(vi) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

(vii) an analysis of existing and projected fiscal resources;

(viii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

(ix) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (vi) for all subpop-

ulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

(4) Plan objectives

The plan shall—

(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy activities in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

(5) Assurances

The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

(A) Use of funds

With respect to the funds paid to the State under section 6025 of this title, the plan shall provide assurances that—

(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

(iv) part of such funds will be made available by the State to public or private entities;

(v) not more than 25 percent of such funds will be allocated to the agency designated under section 6024(d) of this title for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

(vi) not less than 65 percent of the amount available to the State under sec-

tion 6025 of this title shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area;

(vii) the remainder of the amount available to the State from allotments under section 6025 of this title (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 6024(c) of this title; and

(viii) such funds will be used consistent with section 14403 of this title.

(B) State financial participation

The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

(C) Conflict of interest

The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

(D) Urban and rural poverty areas

The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

(E) Program standards

The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

(F) Individualized services

The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

(G) Human rights

The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this subchapter will be protected consistent with section 6009 of this title (relat-

ing to rights of individuals with developmental disabilities).

(H) Minority participation

The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this subchapter is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

(I) Intermediate care facility for the mentally retarded survey reports

The plan shall provide assurances that the State will provide the State Developmental Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1396a(a)(31) of this title with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

(J) Volunteers

The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

(K) Employee protections

The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

(L) Staff assignments

The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this subchapter and are not assigned duties by the designated State agency or any other agency or office of the State.

(M) Noninterference

The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 6024(d)(3) of this title.

(N) Other assurances

The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this subchapter.

(d) Public review, submission, and approval**(1) Public review**

The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.

(2) Consultation with the designated State agency

Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

(3) Plan approval

The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c) of this section. The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.

(Pub. L. 88-164, title I, §122, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2670; amended Pub. L. 99-91, §6(b), Aug. 15, 1985, 99 Stat. 391; Pub. L. 100-146, title II, §202, Oct. 29, 1987, 101 Stat. 845; Pub. L. 101-496, §11, Oct. 31, 1990, 104 Stat. 1195; Pub. L. 102-119, §26(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-230, title II, §203, Apr. 6, 1994, 108 Stat. 297; Pub. L. 105-12, §9(l)(1), Apr. 30, 1997, 111 Stat. 28.)

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (c)(5)(J), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 122 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3009, set forth administrative provisions relating to demonstration and training grants and was classified to section 6032 of this title, prior to the general amendment of this chapter by Pub. L. 98-527.

AMENDMENTS

1997—Subsec. (c)(5)(A)(viii). Pub. L. 105-12 added cl. (viii).

1994—Pub. L. 103-230 substituted “State plan” for “State plans” in section catchline and amended text generally, substituting, in subsec. (a), provisions relating to submission of plan to Secretary of Health and Human Services for similar provisions, in subsec. (b), provisions relating to planning cycle for provisions relating to plan requirements and contents, in subsec. (c), provisions relating to plan requirements for provisions relating to approval or final disapproval of plan and to notice and hearing requirements, in subsec. (d), provisions relating to public review, submission, and approval of plan for provisions relating to administration

of plan and treatment of expenditures arising therefrom, and struck out former subsecs. (e) and (f), relating, respectively, to continued designation of previously designated State agency and to comprehensive review and analysis of services by State Planning Council and reports of such review.

1991—Subsec. (b)(5)(C). Pub. L. 102-119 substituted reference to the Individuals with Disabilities Education Act for reference to the Education of the Handicapped Act in the original, which for purposes of codification was translated as section 1418 of title 20, thus requiring no change in text.

1990—Subsec. (b)(1)(B). Pub. L. 101-496, §11(1), amended first sentence generally. Prior to amendment, first sentence read as follows: “The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this subchapter referred to as the ‘designated State agency’).”

Subsec. (b)(2)(C). Pub. L. 101-496, §11(2), (3)(B), inserted “, supports and other assistance” after “scope of services”, “, or policies affecting,” before “federally”, “or may be” before “eligible to”, “child welfare,” after “social services,” and “transportation, technology,” after “housing,” substituted “other programs” for “other plans”, added cl. (ii), and redesignated former cl. (ii) as (iii) and inserted “and their families” after “disabilities”.

Subsec. (b)(2)(D) to (F). Pub. L. 101-496, §11(3)(A), (C), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (b)(5)(B)(iii) to (viii). Pub. L. 101-496, §11(4), added cls. (iii) and (iv) and redesignated former cls. (iii) to (vi) as (v) to (viii), respectively.

Subsec. (b)(5)(D)(i). Pub. L. 101-496, §11(5), substituted “the implementation” for “and the implementation” and inserted before period at end “, and activities which address the implementation of recommendations made in the report described in subsection (f) of this section, including recommendations which address underserved and underserved populations”.

Subsec. (d)(1). Pub. L. 101-496, §11(6), substituted “exercise of the functions of the State designated agency” for “administration of the State Plan approved under this section” and “the State agency designated under subsection (b)(1)(B) of this section” for “all of the State agencies designated under subsection (b)(1)(B) of this section for the administration or supervision of the administration of the State plan” and inserted provision at end that State contributions may be counted as part of such State’s non-Federal share of allotments under this subchapter.

Subsec. (e)(5). Pub. L. 101-496, §11(7), added par. (5).

Subsec. (f)(4). Pub. L. 101-496, §11(8), added par. (4) and struck out former par. (4) which required that by Jan. 1, 1990, each State Planning Council prepare and submit to State Governor and legislature a final written report on the review and analyses conducted under pars. (1) and (2), including specific recommendations.

Subsec. (f)(5). Pub. L. 101-496, §11(8), struck out par. (5) which read as follows: “By January 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By April 1, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.”

1987—Subsec. (b). Pub. L. 100-146, §202(a), struck out “for the provision of services for persons with developmental disabilities” after “a State plan” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 100-146, §202(b)(1)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “The plan must provide for the establishment of a State Planning Council, in accordance with section 6024 of this title, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under this chapter, and for the identification of the personnel so assigned.”

Subsec. (b)(1)(B). Pub. L. 100-146, §202(b)(1)(A)(ii), added subpar. (B) and struck out former subpar. (B)

which read as follows: “The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).”

Subsec. (b)(1)(C). Pub. L. 100-146, § 202(b)(1)(A)(iii), substituted “the” for “each” before “State agency”.

Subsec. (b)(2)(A). Pub. L. 100-146, § 202(b)(2)(A), inserted “, activities,” after “programs”.

Subsec. (b)(2)(C)(i). Pub. L. 100-146, § 202(b)(2)(B), inserted cl. (i) and struck out former cl. (i) which read as follows: “the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children’s services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and”.

Subsec. (b)(2)(D). Pub. L. 100-146, § 202(b)(2)(C), substituted “Federal and State priority areas which are addressed or which will be addressed” for “priority services being or to be provided”.

Subsec. (b)(3). Pub. L. 100-146, § 202(b)(3)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 100-146, § 202(b)(3)(A), (4), redesignated par. (3) as (4), in subpar. (A), substituted “enhancing the independence, productivity, and integration into the community of” for “strengthening services for”, and in subpar. (C), struck out “or agencies” after “agency” in two places. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 100-146, § 202(b)(3)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(5)(A). Pub. L. 100-146, § 202(b)(5)(A), inserted subpar. (A) and struck out former subpar. (A) which read as follows: “The plan must provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four priority services.”

Subsec. (b)(5)(B). Pub. L. 100-146, § 202(b)(5)(B), added subpar. (B) and struck out former subpar. (B) which contained cls. (i) to (iii) relating to development, review, and revision of a comprehensive statewide plan.

Subsec. (b)(5)(C). Pub. L. 100-146, § 202(b)(5)(C), (D), redesignated subpar. (D) as (C) and struck out former subpar. (C) which allowed expenditure during fiscal years 1985, 1986, and 1987 of funds for additional special services.

Subsec. (b)(5)(D). Pub. L. 100-146, § 202(b)(5)(D)–(H), redesignated subpar. (E) as (D), in cl. (i), substituted “activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (B), and the implementation of paragraph (3) and subsection (f) of this section” for “service activities in the priority services”, and in cl. (ii), struck out “service activities for persons with developmental disabilities, and” after “be used for”, inserted “priority area activities for”, and substituted “persons with developmental disabilities” for “the provision of such services”. Former subpar. (D) redesignated (C).

Subsec. (b)(5)(E), (F). Pub. L. 100-146, § 202(b)(5)(D), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Subsec. (b)(6). Pub. L. 100-146, § 202(b)(3)(A), (6), redesignated par. (5) as (6), and in subpar. (A), substituted “programs” for “services furnished” and “operated” for “furnished” in cl. (i) and “programs” for “delivery of services” in cl. (ii). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 100-146, § 202(b)(3)(A), (7), redesignated par. (6) as (7), and in subpar. (B), substituted “community living activities” for “alternative community living arrangement services”. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 100-146, § 202(b)(3)(A), redesignated par. (7) as (8).

Subsec. (e). Pub. L. 100-146, § 202(b)(1)(B), added subsec. (e).

Subsec. (f). Pub. L. 100-146, § 202(b)(3)(C), added subsec. (f).

1985—Subsec. (b)(4)(C). Pub. L. 99-91 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Notwithstanding the requirements of subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of services to be expended for service activities in additional services if the Secretary determines that the expenditures of the State on service activities in the initially specified services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the priority services.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-91 effective Oct. 19, 1984, see section 8(b) of Pub. L. 99-91, set out as a note under section 360aa of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6024, 6025, 6025a, 6027, 6029, 6063, 6082 of this title.

§ 6023. Repealed. Pub. L. 103-230, title II, § 204, Apr. 6, 1994, 108 Stat. 302

Section, Pub. L. 88-164, title I, § 123, as added Pub. L. 98-527, § 2, Oct. 19, 1984, 98 Stat. 2674; amended Pub. L. 100-146, title II, § 203, Oct. 29, 1987, 101 Stat. 849, required habilitation plan as condition to State’s receipt of allotment under this subchapter.

A prior section 123 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95-602, title V, § 509, Nov. 6, 1978, 92 Stat. 3010; Pub. L. 97-35, title IX, § 911(b), Aug. 13, 1981, 95 Stat. 563, authorized appropriations for demonstration and training grants and was classified to section 6033 of this title, prior to the general amendment of this chapter by Pub. L. 98-527.

§ 6024. State Developmental Disabilities Councils and designated State agencies

(a) In general

Each State that receives assistance under this subchapter shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the “Council”) to promote, through systemic change, capacity building, and advocacy activities (consistent with section 6000(c)(2) of this title), the development of a consumer and family-centered comprehen-

sive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c) of this section.

(b) Council membership

(1) Council appointments

The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

(2) Membership rotation

The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

(3) Representation of agencies and organizations

Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Older Americans Act [42 U.S.C. 3001 et seq.], and title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]), institutions of higher education, each university affiliated program in the State established under subchapter IV of this chapter, the State protection and advocacy system established under subchapter III of this chapter, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 6022(c)(5)(C) of this title.

(4) Representation of individuals with developmental disabilities

Not less than 50 percent of the membership of each Council shall consist of individuals who are—

(A)(i) individuals with developmental disabilities;

(ii) parents or guardians of children with developmental disabilities; or

(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

(B) not employees of a State agency that receives funds or provides services under this subchapter, and who are not managing employees (as defined in section 1126(b) of the Social Security Act [42 U.S.C. 1320a-5(b)]) of any other entity that receives funds or provides services under this subchapter.

(5) Composition of membership with developmental disabilities

Of the members of the Council described in paragraph (4)—

(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), and immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

(C) one-third shall be a combination of individuals described in paragraph (4)(A).

(6) Institutionalized individuals

Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

(c) Council responsibilities

A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

(1) Systemic change, capacity building, and advocacy activities

The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 6021 of this title.

(2) Examination of priority areas

Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and

their families, pursuant to section 6022 of this title.

(3) State plan development

The Council shall develop and submit to the Secretary the State plan required under section 6022 of this title after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

(4) State plan implementation

The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 6001 of this title, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

(A) Demonstration of new approaches

The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this subchapter, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

(B) Outreach

The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

(C) Training

The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide, services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

(D) Supporting communities

The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

(E) Interagency collaboration and coordination

The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

(F) Coordination with related councils, committees, and programs

The Council may conduct activities to enhance coordination with—

(i) other councils or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State Interagency Coordinating Council under part H¹ of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act [42 U.S.C. 300x et seq.] and other similar councils or committees);

(ii) parent training and information centers under part D¹ of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

(G) Barrier elimination, systems design, and citizen participation

The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

(H) Public education and coalition development

The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

(I) Informing policymakers

The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

¹ See References in Text note below.

(J) Prevention

The Council may conduct prevention activities as defined in section 6001 of this title.

(K) Other activities

The Council may conduct other systemic change, capacity building, and advocacy activities to promote the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

(5) State plan monitoring

Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

(6) Review of designated State agency

The Council shall periodically review the designated State agency with respect to the activities carried out under this chapter and make any recommendations for change to the Governor.

(7) Reports

The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

(8) Budget

Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this subchapter to fund and implement all programs, projects, and activities under this subchapter including—

(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this subchapter, except that such State shall not

apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this chapter; and

(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

(9) Staff hiring and supervision

A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State non-discrimination laws. Dismissal of personnel shall be consistent with State law and personnel policies.

(10) Staff assignments

The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this subchapter and shall not be assigned duties by the designated State agency or any other agency or office of the State.

(11) Construction**(A) Activities of the Council**

Nothing in this subchapter shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

(B) Authority of the Council

Nothing in this chapter shall be construed to authorize a Council to direct, control, or exercise any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) Designated State agency**(1) In general**

Each State that receives assistance under this subchapter shall designate the State agency that shall, on behalf of the State, provide support to the Council. After April 6, 1994, any designation of a State agency shall be made in accordance with the requirements of this subsection.

(2) Designation**(A) Type of agency**

Except as provided in this subsection, the designated State agency shall be—

(i) the Council if such Council may be the designated State agency under the laws of the State;

(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

(B) Conditions for continuation of State service agency designation

(i) Designation before April 6, 1994

If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this subchapter on April 6, 1994, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this subchapter.

(ii) Criteria for continued designation

The determination at the discretion of the Governor (or legislature as the case may be) shall be made after the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

(C) Review of designation

After April 1, 1994, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

(D) Appeal of designation

After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

(3) Responsibilities

The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

(A) Support services

The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

(B) Fiscal responsibilities

The designated State agency shall—

- (i) receive, account for, and disperse funds under this subchapter based on the State plan required in section 6022 of this title; and

- (ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this subchapter.

(C) Records, access, and financial reports

The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

(D) Non-Federal share

The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 6025a(c) of this title.

(E) Assurances

The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

(F) Memorandum of understanding

On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

(4) Use of funds for designated State agency responsibilities

(A) Necessary expenditures of State designated agency

At the request of any State, a portion of any allotment or allotments of such State under this subchapter for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

(B) Condition for Federal funding

Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

(C) Support services provided by other agencies

With the agreement of the designated State agency, the Council may use or con-

tract with agencies other than the designated State agency to perform the functions of the designated State agency.

(e) 1990 report

Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

(1) Comprehensive review and analysis

Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(2) Consumer satisfaction

Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individuals' families.

(3) Public review and comment

Each Council shall convene public forums, after the provision of notice within the State, in order to—

- (A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);
- (B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and
- (C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

(4) Basis for State plan

Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.

(Pub. L. 88-164, title I, §124, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2675; amended Pub. L. 100-146, title II, §204, Oct. 29, 1987, 101

Stat. 849; Pub. L. 101-496, §12, Oct. 31, 1990, 104 Stat. 1197; Pub. L. 102-119, §26(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-230, title II, §205, Apr. 6, 1994, 108 Stat. 302.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsecs. (b)(3) and (c)(4)(F)(i), (11)(B), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (b)(3) and (c)(4)(F), (11)(B), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. Part D of the Act was classified generally to subchapter IV (§1431 et seq.) of chapter 33 of Title 20 and was omitted in the general amendment of that subchapter by Pub. L. 105-17, title I, §101, June 4, 1997, 111 Stat. 37. Pub. L. 105-17 enacted a new part D, which is classified generally to subchapter IV (§1451 et seq.) of chapter 33 of Title 20. Part H of the Act was classified generally to subchapter VIII (§1471 et seq.) of chapter 33 of Title 20, prior to repeal by Pub. L. 105-17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Older Americans Act, referred to in subsec. (b)(3), probably means the Older Americans Act of 1965, Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Public Health Service Act, referred to in subsec. (c)(4)(F)(i), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part B of title XIX of the Act is classified generally to part B (§300x et seq.) of subchapter XVII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

This chapter, referred to in subsec. (c)(6), (8)(B), (11)(B), was in the original "this Act" and was translated as reading "this title", meaning title I of Pub. L. 88-164, known as the Developmental Disabilities Assistance and Bill of Rights Act, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally, substituting section catchline for one which read "State Planning Councils", in subsecs. (a) and (b), provisions relating to establishment and membership of State Developmental Disabilities Councils for similar provisions relating to State Planning Councils, in subsec. (c), provisions relating to responsibilities of State Developmental Disabilities Councils for provisions relating to staff and personnel of State Planning Councils, in subsec. (d), provisions requiring designation of State agency to provide support for State Developmental Disabilities Councils for provisions relating to duties of State Planning Councils, and adding subsec. (e) relating to reporting requirements.

1991—Subsec. (b)(3). Pub. L. 102-119 substituted "Individuals with Disabilities Education Act" for "Education of the Handicapped Act".

1990—Subsec. (a). Pub. L. 101-496, §12(1), substituted "to" for "which will" and inserted "by carrying out priority area activities" before period at end.

Subsec. (c)(1). Pub. L. 101-496, §12(2), substituted "shall" for "may" and "fund all activities under this

subchapter (except administrative costs described in section 6022(d)(1) of this title) and to hire" for "hire".

Subsec. (c)(2), (3). Pub. L. 101-496, §12(3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 101-496, §12(4), substituted "and submit after consultation with" for "jointly with".

1987—Subsec. (a). Pub. L. 100-146, §204(2), added subsec. (a) and struck out former subsec. (a) which related to membership of State Planning Councils. See subsec. (b)(1) to (5).

Subsec. (b). Pub. L. 100-146, §204(2), added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 100-146, §204(2), added subsec. (c). Subsec. (d). Pub. L. 100-146, §204(1), redesignated subsec. (b) as (d), and in par. (1), struck out "or agencies" after "State agency" and substituted "including the specifications of Federal and State priority activities under section 6022(b)(5)(D)(i) of this title" for "including the specification of services under section 6022(b)(4)(B) of this title".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1320b-20, 1396u, 6001, 6022, 6025a, 6026 of this title; title 29 section 725.

§ 6025. State allotments

(a) Allotments

(1) In general

For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 6030 of this title among the States on the basis of—

- (A) the population,
- (B) the extent of need for services for persons with developmental disabilities, and
- (C) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 6022 of this title for the provision under such plans of services for persons with developmental disabilities.

(2) Adjustments

Adjustments in the amounts of State allotments based on subparagraphs (A), (B), and (C) of paragraph (1) shall be made not more often than annually. The Secretary shall notify States of any adjustment made and the percentage of the total appropriation for each State not less than six months before the beginning of the fiscal year in which such adjustment is to take effect.

(3) Minimum allotment for appropriations less than or equal to \$75,000,000

(A) In general

Except as provided in paragraph (4), for any fiscal year the allotment under this section—

- (i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

- (I) \$210,000; or

- (II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section); and

- (ii) to any State not described in clause (i), may not be less than the greater of—

- (I) \$400,000; or

- (II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section).

(B) Reduction of allotment

Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 6030 of this title for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 6030 of this title for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

(4) Minimum allotment for appropriations in excess of \$75,000,000

(A) In general

In any case in which amounts appropriated under section 6030 of this title for a fiscal year exceeds \$75,000,000, the allotment under this section for such fiscal year—

- (i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

- (I) \$220,000; or

- (II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section); and

- (ii) to any State not described in clause (i) may not be less than the greater of—

- (I) \$450,000; or

- (II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section).

(B) Reduction of allotment

The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such

requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).

(5) State supports, services, and other activities

In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 6022(c)(3)(A) of this title, in the State plan of the State.

(6) Increase in allotments

In any case in which the total amount appropriated under section 6030 of this title for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

(A) the total amount appropriated under section 6030 of this title for the fiscal year for which the increase in minimum allotment is being made, minus

(B) the total amount appropriated under section 6030 of this title for the immediately preceding fiscal year,

bears to the total amount appropriated under section 6030 of this title for such preceding fiscal year.

(b) Unobligated funds

Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(c) Obligation of funds

For the purposes of this subchapter, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this subchapter.

(d) Cooperative efforts between States

Whenever the State plan approved in accordance with section 6022 of this title provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(e) Reallotments

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such

date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section for such fiscal year.

(Pub. L. 88-164, title I, §125, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2676; amended Pub. L. 100-146, title II, §205, Oct. 29, 1987, 101 Stat. 850; Pub. L. 101-496, §13, Oct. 31, 1990, 104 Stat. 1197; Pub. L. 103-230, title II, §206, Apr. 6, 1994, 108 Stat. 310.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(3)(A)(i), (4)(A)(i), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 125 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 488, authorized construction, renovation, or modernization of buildings to be used by university affiliated facilities and was classified to section 6041 of this title, prior to general amendment of subchapter II by Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1994—Pub. L. 103-230, §206(a), reenacted section catchline without change.

Subsec. (a). Pub. L. 103-230, §206(b)(1)(B), inserted heading.

Subsec. (a)(1). Pub. L. 103-230, §206(b)(1)(A), (B), inserted heading and realigned margins of subpars. (A) to (C) and closing provisions.

Subsec. (a)(2). Pub. L. 103-230, §206(b)(1)(C), inserted heading and in text substituted “shall be” for “may be” and “and the percentage of the total appropriation for each State not less” for “not less”.

Subsec. (a)(3). Pub. L. 103-230, §206(b)(1)(D), inserted headings for par. (3) and subpars. (A) and (B) and amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

“(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

“(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d) of this section) received by the State for the fiscal year ending September 30, 1990.”

Subsec. (a)(4). Pub. L. 103-230, §206(b)(1)(E), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “In any case in which amounts appropriated under section 6030 of this title for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year—

“(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana

Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

“(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.”

Subsec. (a)(5). Pub. L. 103-230, § 206(b)(1)(F), inserted heading and substituted “6022(c)(3)(A) of this title” for “6022(b)(2)(C) of this title” in text.

Subsec. (a)(6). Pub. L. 103-230, § 206(b)(1)(G), inserted heading.

Subsec. (b). Pub. L. 103-230, § 206(b)(2), inserted heading.

Subsec. (c). Pub. L. 103-230, § 206(b)(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 103-230, § 206(b)(3), (5), redesignated subsec. (c) as (d) and inserted heading. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103-230, § 206(b)(3), (6), redesignated subsec. (d) as (e) and inserted heading.

1990—Subsec. (a)(3). Pub. L. 101-496 amended par. (3) generally. Prior to amendment, par. (3) read as follows:

“(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

“(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than \$160,000, and

“(ii) to any other State may not be less than the greater of \$300,000, or the amount of the allotment (determined without regard to subsection (d) of this section) received by the State for the fiscal year ending September 30, 1984.

“(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 6030 of this title for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 6030 of this title for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.”

Subsec. (a)(4). Pub. L. 101-496 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “In any case in which amounts appropriated under section 6030 of this title for a fiscal year exceed \$60,000,000, the allotment under paragraph (1) for such fiscal year—

“(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than \$200,000; and

“(B) to each of the several States, Puerto Rico, or the District of Columbia, may not be less than \$350,000.”

Subsec. (a)(5). Pub. L. 101-496 reenacted par. (5) without change.

Subsec. (a)(6). Pub. L. 101-496 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “In any case in which the total amount appropriated under section 6030 of this title for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

“(A) the total amount appropriated under section 6030 of this title for the fiscal year for which the increase in minimum allotment is being made, minus

“(B) the total amount appropriated under section 6030 of this title for the immediately preceding fiscal year,

bears to the total amount appropriated under section 6030 of this title for such preceding fiscal year.”

1987—Subsec. (a)(3)(A)(i). Pub. L. 100-146, § 205(a)(1), substituted “\$160,000” for “\$100,000”.

Subsec. (a)(3)(A)(ii). Pub. L. 100-146, § 205(a)(2), substituted “\$300,000” for “\$250,000”.

Subsec. (a)(4). Pub. L. 100-146, § 205(a)(3)–(5), in introductory provisions, substituted “\$60,000,000” for “\$47,000,000”, in subpar. (A), substituted “\$200,000” for “\$160,000”, and in subpar. (B), substituted “\$350,000” for “\$300,000”.

Subsec. (a)(6). Pub. L. 100-146, § 205(a)(6), added par. (6).

Subsec. (b). Pub. L. 100-146, § 205(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Whenever the State plan approved in accordance with section 6022 of this title provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

REVIEW AND ANALYSIS OF ALLOTMENT FORMULA; ALTERNATIVES; REPORT

Section 213 of Pub. L. 103-230 provided that:

“(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6021 et seq., 6041 et seq.] prior to the date of enactment of this Act, [Apr. 6, 1994], including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act [42 U.S.C. 6000 et seq.].

“(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act [see Short Title of 1994 Amendment note set out under section 6000 of this title].

“(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce [now Committee on Commerce] of the House of Representatives.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6022, 6025a, 6026, 6027, 6030, 6042 of this title.

§ 6025a. Federal and non-Federal share

(a) Aggregate costs

The Federal share of all projects in a State supported by an allotment to the State under this subchapter may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such

projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

(b) Nonduplication

In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 6022 of this title, the Secretary shall not consider—

(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 6025 of this title; and

(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

(c) Non-Federal share

(1) In kind contributions

The non-Federal share of the cost of any project assisted by a grant or an allotment under this subchapter may be provided in kind.

(2) Contributions of political subdivisions, public, or private entities

(A) In general

Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this subchapter.

(B) State contributions

State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 6024(d)(4) of this title, may be counted as part of such State's non-Federal share of allotments under this subchapter.

(3) Variations of the non-Federal share

The non-Federal share required on a grant-by-grant basis may vary.

(Pub. L. 88-164, title I, §125A, as added Pub. L. 103-230, title II, §207, Apr. 6, 1994, 108 Stat. 312.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6024 of this title.

§ 6026. Payments to States for planning, administration, and services

(a) State plan expenditures

From each State's allotments for a fiscal year under section 6025 of this title, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this subchapter. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State

plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b) Support services

Payments to States for support services provided by the designated State agency pursuant to section 6024(d)(4) of this title may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(Pub. L. 88-164, title I, §126, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2677; amended Pub. L. 103-230, title II, §208, Apr. 6, 1994, 108 Stat. 313.)

PRIOR PROVISIONS

A prior section 126 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 488, related to grants for projects and to application requirements and was classified to section 6042 of this title, prior to general amendment of a prior subchapter II by Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1994—Pub. L. 103-230 inserted comma after “administration” in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 6027. Withholding of payments for planning, administration, and services

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency designated pursuant to section 6022(b)(1)¹ of this title finds that—

(1) there is a failure to comply substantially with any of the provisions required by section 6022 of this title to be included in the State plan, particularly section 6022(b)(3) or 6022(f)¹ of this title; or

(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this subchapter,

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 6025 of this title (or, in the discretion of the Secretary, that further payments will not be made to the State under section 6025 of this title for activities in which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payment to the State under section 6025 of this title, or shall limit further payment under section 6025 of this title to such State to activities in which there is no such failure.

(Pub. L. 88-164, title I, §127, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2678; amended Pub. L. 100-146, title II, §207, Oct. 29, 1987, 101 Stat. 851; Pub. L. 103-230, title II, §209, Apr. 6, 1994, 108 Stat. 313.)

REFERENCES IN TEXT

Section 6022 of this title, referred to in text, was amended generally by Pub. L. 103-230, title II, §203, Apr.

¹ See References in Text note below.

6, 1994, 108 Stat. 297, and, as so amended, section 6022(b) does not contain pars. and section 6022 does not contain a subsec. (f).

PRIOR PROVISIONS

A prior section 127 of Pub. L. 88-164, title I, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 488, authorized appropriations for making payments for construction, renovation, or modernization of buildings and was classified to section 6043 of this title, prior to general amendment of a prior subchapter II by Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1994—Pub. L. 103-230 inserted comma after “administration” in section catchline and substituted “section” for “sections” before “6022(b)(3)” in par. (1).

1987—Par. (1). Pub. L. 100-146 inserted “, particularly sections 6022(b)(3) or 6022(f) of this title” after “State plan”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6029 of this title.

§ 6028. Repealed. Pub. L. 103-230, title II, §210, Apr. 6, 1994, 108 Stat. 313

Section, Pub. L. 88-164, title I, §128, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2678, related to non-duplication in determining amount of Federal share of expenditures under State plan approved under section 6022 of this title.

§ 6029. Appeals by States

If any State is dissatisfied with the Secretary's action under section 6022(c)¹ of this title or section 6027 of this title, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order of the Secretary. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify the previous action of the Secretary, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the

United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

(Pub. L. 88-164, title I, §129, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2678; amended Pub. L. 103-230, title II, §211, Apr. 6, 1994, 108 Stat. 313.)

REFERENCES IN TEXT

Section 6022 of this title, referred to in text, was amended generally by Pub. L. 103-230, title II, §203, Apr. 6, 1994, 108 Stat. 297, and, as so amended, provisions formerly appearing in subsec. (c) are contained in subsec. (d)(3).

AMENDMENTS

1994—Pub. L. 103-230 reenacted section catchline without change.

§ 6030. Authorization of appropriations

For allotments under section 6025 of this title, there are authorized to be appropriated \$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

(Pub. L. 88-164, title I, §130, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 100-146, title II, §208, Oct. 29, 1987, 101 Stat. 851; Pub. L. 101-496, §14, Oct. 31, 1990, 104 Stat. 1198; Pub. L. 103-230, title II, §212, Apr. 6, 1994, 108 Stat. 313; Pub. L. 104-183, §2, Aug. 6, 1996, 110 Stat. 1694.)

PRIOR PROVISIONS

Prior sections 6031 to 6033 were omitted in the general amendment of this chapter by Pub. L. 98-527.

Section 6031, Pub. L. 88-164, title I, §121, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 486; amended Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008, related to grants for university affiliated facilities. See section 6062 of this title.

Section 6032, Pub. L. 88-164, title I, §122, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3009, set forth administrative provisions relating to demonstration and training grants for university affiliated facilities. See section 6063 of this title.

Section 6033, Pub. L. 88-164, title I, §123, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 487; amended Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3010; Pub. L. 97-35, title IX, §911(b), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98-221, title III, §303, Feb. 22, 1984, 98 Stat. 35, authorized appropriations for demonstration and training grants for university affiliated facilities. See section 6064 of this title.

AMENDMENTS

1996—Pub. L. 104-183 substituted “1995 through 1999” for “1995 and 1996”.

1994—Pub. L. 103-230 substituted “\$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.” for “\$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.”

1990—Pub. L. 101-496 substituted “\$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993” for “\$62,200,000 for fiscal year 1988, \$69,900,000 for fiscal year 1989, and \$77,400,000 for fiscal year 1990”.

1987—Pub. L. 100-146 amended section generally. Prior to amendment, section read as follows: “For allotments

¹ See References in Text note below.

under section 6025 of this title, there are authorized to be appropriated \$50,250,000 for fiscal year 1985, \$53,400,000 for fiscal year 1986, and \$56,500,000 for fiscal year 1987.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6022, 6025 of this title.

SUBCHAPTER III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1320b-21, 1396r, 6006, 6022, 6024, 6082, 6083, 10802, 14404 of this title; title 29 sections 794e, 3002.

§ 6041. Purpose

It is the purpose of this subchapter to provide for allotments to support a Protection and Advocacy system (hereafter referred to in this subchapter as the “system”) in each State to protect the legal and human rights of individuals with developmental disabilities in accordance with section 6042 of this title.

(Pub. L. 88-164, title I, §141, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 103-230, title III, §302, Apr. 6, 1994, 108 Stat. 314.)

PRIOR PROVISIONS

A prior section 6041, Pub. L. 88-164, title I, §125, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 488, authorized construction, renovation, or modernization of buildings to be used by university-affiliated facilities, prior to the general amendment of subchapter II of this chapter by Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1994—Pub. L. 103-230 substituted section catchline for former section catchline and in text substituted “Protection and Advocacy system (hereafter referred to in this subchapter as the ‘system’)” for “system” and “individuals” for “persons”.

§ 6042. System required

(a) System required

In order for a State to receive an allotment under subchapter II of this chapter—

(1) the State must have in effect a system to protect and advocate the rights of individuals with developmental disabilities;

(2) such system must—

(A) have the authority to—

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and

(ii) provide information on and referral to programs and services addressing the

needs of individuals with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(C) on an annual basis, develop a statement of objectives and priorities for the system’s activities; and¹

(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [42 U.S.C. 10801 et seq.], and with other related programs, including the parent training and information centers, education ombudsman programs and assistive technology projects;

(E) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with developmental disabilities have full access to services of the system;

(F) not be administered by the State Developmental Disabilities Council authorized under subchapter II of this chapter;

(G) be independent of any agency which provides treatment, services, or habilitation to individuals with developmental disabilities;

(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;

(I) have access to all records of—

(i) any individual with developmental disabilities who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;

(ii) any individual with developmental disabilities—

(I) who, by reason of such individual’s mental or physical condition, is unable to authorize the system to have such access;

(II) who does not have a legal guardian, conservator, or other legal representa-

¹ So in original. The word “and” probably should not appear.

tive, or for whom the legal guardian is the State; and

(III) with respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities there is probable cause to believe that such individual has been subject to abuse or neglect; and

(iii) any person² with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

(II) such system has offered assistance to such representatives to resolve the situation; and

(III) such representatives have failed or refused to act on behalf of the individual;

(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this chapter;

(K) have the authority to educate policy-makers; and

(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;

(3) the State must provide to the system a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to section 1396a(a)(31) of this title with respect to any intermediate care facility for the mentally retarded in the State within 30 days after the completion of each such report or plan; and

(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.

(b) American Indian Consortium

Upon application to the Secretary, an American Indian consortium,³ as defined in section 6001 of this title, established to provide protection and advocacy services under this subchapter, shall receive funding pursuant to subsection (c)(5) of this section. Such consortium shall coordinate activities with existing systems.

(c) Allotments

(1) In general

To assist States in meeting the requirements of subsection (a) of this section, the Secretary shall allot to the States the amounts appropriated under section 6043 of this title. Allotments and reallocations of such sums shall be made on the same basis as the allotments and reallocations are made under the first sentence of subsection (a)(1) and subsection (d)⁴ of section 6025 of this title, except that in any case in which—

(A) the total amount appropriated under section 6043 of this title for a fiscal year is at least \$20,000,000—

(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

(I) \$107,000; or

(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section); and

(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

(I) \$200,000; or

(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section).

(B) the total amount appropriated under section 6043 of this title for a fiscal year is less than \$20,000,000—

(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

(I) \$80,000; or

(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State

² So in original. Probably should be "individual".

³ So in original. Probably should be capitalized.

⁴ See References in Text note below.

for fiscal year 1993, under this section (determined without regard to subsection (d) of this section); and

(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

(I) \$150,000; or

(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d) of this section).

(2) Increase in allotments

In any case in which the total amount appropriated under section 6043 of this title for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973 [29 U.S.C. 720(c)(1)], the Secretary shall increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

(A) the total amount appropriated under section 6043 of this title for the fiscal year for which the increase in minimum allotment is being made, minus

(B) the total amount appropriated under section 6043 of this title for the immediately preceding fiscal year,

bears to the total amount appropriated under section 6043 of this title for such preceding fiscal year.

(3) Monitoring the administration of the system

A State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under subsection (a) of this section.

(4) Reduction of allotment

Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments to be made in accordance with such paragraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 6043 of this title, the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amounts appropriated for that year under section 6043 of this title bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

(5) Technical assistance and American Indian Consortium

In any case in which amounts appropriated under section 6043 of this title for a fiscal year exceeds \$24,500,000, the Secretary shall—

(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach \$24,500,000) to eligible systems with respect to activities carried out under this chapter; and

(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortia to provide protection and advocacy services.

(d) Unobligated funds

Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(e) Governing board

In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals;

(2) not more than $\frac{1}{3}$ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board;

(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs; and

(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.

(f) Records

As used in this section the term “records” includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

(g) Access to records

If the laws of a State prohibit a system from obtaining access to records of individuals with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) of this section shall not apply to such system before—

- (1) the date such system is no longer subject to such prohibition; or
- (2) the expiration of the 1-year period beginning on October 31, 1990, whichever occurs first.

(h) Legal action**(1) In general**

Nothing in this chapter shall preclude the systems described under this section from bringing a suit on behalf of individuals with developmental disabilities against a State, or agencies or instrumentalities of a State.

(2) Use of amounts from judgment

Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this subchapter and shall not be used to augment payments to legal contractors or to award personal bonuses.

(3) Limitation

The systems may only use assistance provided under this chapter consistent with section 14404 of this title.

(i) Payment to systems

Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.

(j) Disclosure of information

For purposes of any periodic audit, report, or evaluation required under this chapter, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(k) Public notice of Federal onsite review

The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this subchapter through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such review shall be distributed to the Governor of the State and to other interested public and private parties.

(Pub. L. 88-164, title I, §142, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2679; amended Pub. L. 100-146, title III, §301, Oct. 29, 1987, 101 Stat. 851; Pub. L. 101-496, §15, Oct. 31, 1990, 104 Stat. 1198; Pub. L. 103-230, title III, §303, Apr. 6, 1994, 108 Stat. 314; Pub. L. 105-12, §9(l)(2), Apr. 30, 1997, 111 Stat. 28.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (a)(2)(D)(ii), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355,

as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Older Americans Act of 1965, referred to in subsec. (a)(2)(D)(ii), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (a)(2)(D)(ii), is Pub. L. 99-319, May 23, 1986, 100 Stat. 478, as amended, which is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

This chapter, referred to in subsecs. (a)(2)(J), (h)(1), and (j), was in the original "this Act" and was translated as reading "this title", meaning title I of Pub. L. 88-164, known as the Developmental Disabilities Assistance and Bill of Rights Act, to reflect the probable intent of Congress.

Subsection (d) of section 6025 of this title, referred to in subsec. (c)(1), was redesignated subsec. (e) of section 6025 by Pub. L. 103-230, title II, §206(b)(3), Apr. 6, 1994, 108 Stat. 312.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (c)(1)(A)(i), (B)(i), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

CODIFICATION

October 31, 1990, referred to in subsec. (g)(2), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 101-496, which enacted subsec. (f) [now (g)] of this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6042, Pub. L. 88-164, title I, §126, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 488, related to grants for projects and to application requirements, prior to the general amendment of subchapter II of this chapter by Pub. L. 95-602, title V, §509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1997—Subsec. (h)(3). Pub. L. 105-12 added par. (3).

1994—Pub. L. 103-230, §303(a), reenacted section catchline without change.

Subsec. (a). Pub. L. 103-230, §303(b)(1)(A), inserted heading.

Subsec. (a)(1). Pub. L. 103-230, §303(b)(1)(B), substituted "individuals" for "persons".

Subsec. (a)(2)(A). Pub. L. 103-230, §303(b)(1)(C)(i), (ii), substituted "individuals" for "persons" and "ethnic and racial minority" for "minority" in cl. (i) and "individuals" for "persons" in cl. (ii).

Subsec. (a)(2)(B). Pub. L. 103-230, §303(b)(1)(C)(i), substituted "individuals" for "persons".

Subsec. (a)(2)(C). Pub. L. 103-230, §303(b)(1)(C)(iii), (viii), added subpar. (C) and struck out former subpar. (C) which read as follows: "on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act."

Subsec. (a)(2)(D). Pub. L. 103-230, § 303(b)(1)(C)(vii), (viii), added subpar. (D) and redesignated former subpar. (D) as (E).

Pub. L. 103-230, § 303(b)(1)(C)(i), substituted “individuals” for “persons”.

Subsec. (a)(2)(E). Pub. L. 103-230, § 303(b)(1)(C)(vii), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 103-230, § 303(b)(1)(C)(iv), substituted “Developmental Disabilities Council authorized under subchapter II of this chapter” for “Planning Council”.

(a)(2)(F). Pub. L. 103-230, § 303(b)(1)(C)(vii), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 103-230, § 303(b)(1)(C)(i), (v), substituted “individuals” for “persons” and struck out “and” after “disabilities”.

Subsec. (a)(2)(G). Pub. L. 103-230, § 303(b)(1)(C)(vii), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (I).

Subsec. (a)(2)(G)(i). Pub. L. 103-230, § 303(b)(1)(C)(vi)(I), substituted “individual” for “person” wherever appearing.

Subsec. (a)(2)(G)(ii). Pub. L. 103-230, § 303(b)(1)(C)(vi)(II)–(IV), substituted “individual” for “person” in introductory provisions, “by reason of such individual’s mental or physical condition” for “by reason of the mental or physical condition of such person” in subcl. (I), and “individual” for “person” in subcl. (III).

Subsec. (a)(2)(G)(iii). Pub. L. 103-230, § 303(b)(1)(C)(vi)(V)–(VII), realigned margins of cl. (iii) and subcls. (I) to (III) thereof and substituted “individual” for “person” in subcl. (III).

Subsec. (a)(2)(H). Pub. L. 103-230, § 303(b)(1)(C)(ix), added subpar. (H).

Subsec. (a)(2)(I). Pub. L. 103-230, § 303(b)(1)(C)(vii), redesignated subpar. (G) as (I).

Subsec. (a)(2)(J) to (L). Pub. L. 103-230, § 303(b)(1)(C)(x), added subpars. (J) to (L).

Subsec. (a)(3). Pub. L. 103-230, § 303(b)(1)(D), (E)(iii), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “the State must provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds”.

Subsec. (a)(4). Pub. L. 103-230, § 303(b)(1)(E)(iii), (F), added par. (4) and redesignated former par. (4) as (3).

Pub. L. 103-230, § 303(b)(1)(E)(i), (ii), substituted “the State must provide to the system” for “the State must provide assurances to the Secretary that such system will be provided with” and “1396a(a)(31) of this title” for “1396a(a)(31)(B) of this title”.

Subsec. (a)(5). Pub. L. 103-230, § 303(b)(1)(D), struck out par. (5) which read as follows: “the State must provide assurances satisfactory to the Secretary that the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

“(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

“(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

“(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.”

Subsec. (b). Pub. L. 103-230, § 303(b)(9), (10), added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 103-230, § 303(b)(2)(A), inserted heading.

Subsec. (b)(1). Pub. L. 103-230, § 303(b)(2)(A), inserted heading.

Subsec. (b)(1)(A). Pub. L. 103-230, § 303(b)(2)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the total amount appropriated under section 6043 of this title for a fiscal year is at least \$20,000,000—

“(i) the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than \$107,000; and

“(ii) the allotment to each of the several States, Puerto Rico, and the District of Columbia for such fiscal year shall not be less than \$200,000; or”.

Subsec. (b)(1)(B). Pub. L. 103-230, § 303(b)(2)(B)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the total amount appropriated under section 6043 of this title for a fiscal year is less than \$20,000,000, the allotment to each State (other than Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) shall not be less than \$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than \$80,000.”

Subsec. (b)(2) to (4). Pub. L. 103-230, § 303(b)(2)(C)–(G), inserted headings and realigned margins.

Subsec. (b)(5). Pub. L. 103-230, § 303(b)(2)(H), added par. (5).

Subsec. (c). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Pub. L. 103-230, § 303(b)(3), inserted heading.

Subsec. (d). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 103-230, § 303(b)(4)(A), inserted heading.

Subsec. (d)(1). Pub. L. 103-230, § 303(b)(4)(B), inserted before semicolon “and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals”.

Subsec. (d)(4). Pub. L. 103-230, § 303(b)(4)(C)–(E), added par. (4).

Subsec. (e). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Pub. L. 103-230, § 303(b)(5), inserted heading.

Subsec. (f). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 103-230, § 303(b)(6), inserted heading and substituted “individuals” for “persons” in introductory provisions.

Subsec. (g). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Pub. L. 103-230, § 303(b)(7)(A), inserted heading.

Subsec. (g)(1). Pub. L. 103-230, § 303(b)(7)(A), (B), inserted heading and substituted “individuals” for “persons” in text.

Subsec. (g)(2). Pub. L. 103-230, § 303(b)(7)(C), inserted heading.

Subsec. (h). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 103-230, § 303(b)(8), inserted heading.

Subsec. (i). Pub. L. 103-230, § 303(b)(9), redesignated subsec. (h) as (i).

Subsecs. (j), (k). Pub. L. 103-230, § 303(b)(11), added subsecs. (j) and (k).

1990—Subsec. (a)(2)(C). Pub. L. 101-496, § 15(1)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: “on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system”.

Subsec. (a)(2)(G)(i). Pub. L. 101-496, § 15(1)(B), struck out “and” at end.

Subsec. (a)(2)(G)(ii)(III). Pub. L. 101-496, § 15(1)(C), (D), inserted “as a result of monitoring or other activities” before “there is” and inserted “and” at end.

Subsec. (a)(2)(G)(iii). Pub. L. 101-496, § 15(1)(E), added cl. (iii).

Subsec. (a)(5). Pub. L. 101-496, § 15(1)(F), which directed the substitution of “unless—” and subpars. (A)

to (C) for “unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives”, was executed by making the substitution for “unless notice has been given of the intention to make such redesignation to persons with developmental disabilities or their representatives” to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 101-496, § 15(2), substituted “the Secretary shall” for “the Secretary may”.

Subsecs. (d) to (h). Pub. L. 101-496, § 15(3), added subsecs. (d) to (h).

1987—Subsec. (a)(2)(A). Pub. L. 100-146, § 301(a)(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State and to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities.”.

Subsec. (a)(2)(B) to (D). Pub. L. 100-146, § 301(a)(1), (2), added subpars. (B) to (D) and redesignated former subpars. (B) to (D) as (E) to (G), respectively.

Subsec. (a)(2)(E), (F). Pub. L. 100-146, § 301(a)(1), redesignated subpars. (B) and (C) as (E) and (F), respectively.

Subsec. (a)(2)(G). Pub. L. 100-146, § 301(a)(1), (3), added subpar. (G) and struck out former subpar. (G), after redesignating it from (D), which read as follows: “except as provided in subsection (b) of this section, be able to obtain access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities if—

“(i) a complaint has been received by the system from or on behalf of such person; and

“(ii) such person does not have a legal guardian or the State or the designee of the State is the legal guardian of such person.”.

Subsec. (b). Pub. L. 100-146, § 301(b)(1), (2), (c), redesignated subsec. (c) as (b), and in par. (1)(A), substituted “\$20,000,000” for “\$11,000,000” in introductory provisions, “\$107,000” for “\$80,000” in cl. (i), and “\$200,000” for “\$150,000” in cl. (ii), in subpar. (B), substituted “\$20,000,000” for “\$11,000,000” and “\$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than \$80,000” for “\$50,000”, added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and struck out former subsec. (b) which read as follows: “Prior to October 1, 1986, the provisions of paragraph (2)(D) of subsection (a) of this section shall not apply to any State in which the laws of the State prohibit the system required under such subsection from obtaining access to the records of a person with developmental disabilities under the conditions described in such paragraph.”

Subsec. (c). Pub. L. 100-146, § 301(c)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1396u, 6001, 6041, 6043, 6083 of this title; title 29 section 794e.

§ 6043. Authorization of appropriations

For allotments under section 6042 of this title, there are authorized to be appropriated \$24,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

(Pub. L. 88-164, title I, § 143, as added Pub. L. 98-527, § 2, Oct. 19, 1984, 98 Stat. 2680; amended Pub. L. 100-146, title III, § 302, Oct. 29, 1987, 101 Stat. 853; Pub. L. 101-496, § 16, Oct. 31, 1990, 104 Stat. 1200; Pub. L. 103-230, title III, § 304, Apr. 6, 1994, 108 Stat. 319; Pub. L. 104-183, § 3, Aug. 6, 1996, 110 Stat. 1694.)

PRIOR PROVISIONS

A prior section 6043, Pub. L. 88-164, title I, § 127, as added Pub. L. 94-103, title I, § 105, Oct. 4, 1975, 89 Stat. 488, authorized appropriations for making payments for construction, renovation, or modernization of buildings, prior to the general amendment of subchapter II of this chapter by Pub. L. 95-602, title V, § 509, Nov. 6, 1978, 92 Stat. 3008.

AMENDMENTS

1996—Pub. L. 104-183 substituted “1995 through 1999” for “1995 and 1996”.

1994—Pub. L. 103-230 reenacted section catchline without change and in text substituted “\$24,000,000 for fiscal year 1994” for “\$24,200,000 for fiscal year 1991” and “fiscal years 1995 and 1996” for “fiscal years 1992 and 1993”.

1990—Pub. L. 101-496 substituted “\$24,200,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993” for “\$20,000,000 for fiscal year 1988, \$22,000,000 for fiscal year 1989, and \$24,200,000 for fiscal year 1990”.

1987—Pub. L. 100-146 amended section generally. Prior to amendment, section read as follows: “For allotments under section 6042 of this title, there are authorized to be appropriated \$13,750,000 for fiscal year 1985, \$14,600,000 for fiscal year 1986, and \$15,500,000 for fiscal year 1987. The provisions of section 1913 of title 18 shall be applicable to all moneys authorized under the provisions of this section.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6042 of this title.

SUBCHAPTER IV—UNIVERSITY AFFILIATED PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6006, 6022, 6024, 6082, 6083, 14403 of this title.

§ 6061. Purpose and scope of activities

The purpose of this subchapter is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities through the provision of the following activities, which are conducted in a culturally competent manner:

(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.

(Pub. L. 88-164, title I, §151, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2681; amended Pub. L. 100-146, title IV, §401(a), Oct. 29, 1987, 101 Stat. 853; Pub. L. 103-230, title IV, §402, Apr. 6, 1994, 108 Stat. 319.)

PRIOR PROVISIONS

A prior section 6061, Pub. L. 88-164, title I, §131, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317; amended Pub. L. 93-45, title III, §301(b), June 18, 1973, 87 Stat. 95; Pub. L. 94-103, title I, §§101(a), 110(a), Oct. 4, 1975, 89 Stat. 486, 489; Pub. L. 95-602, title V, §510(a), Nov. 6, 1978, 92 Stat. 3010; Pub. L. 97-35, title IX, §911(c), Aug. 13, 1981, 95 Stat. 563; Pub. L. 98-221, title III, §304, Feb. 22, 1984, 98 Stat. 35, authorized appropriations for State allotments, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6030 of this title.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally. Prior to amendment, section read as follows: “The purpose of this subchapter is to provide for grants to university affiliated programs to assist in the provision of interdisciplinary training, the demonstration of exemplary services and technical assistance, and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.”

1987—Pub. L. 100-146 substituted “programs” for “facilities” and “the demonstration of exemplary services and technical assistance” for “the conduct of service demonstration programs”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6062, 6063 of this title.

§ 6062. Grant authority

(a) Administration and operation

From appropriations under section 6064(a)¹ of this title, the Secretary shall make grants to university affiliated programs to assist in the administration and operation of the activities described in section 6061 of this title. Grants

may be awarded for a period not to exceed 5 years.

(b) Training projects

(1) In general

From amounts appropriated under section 6066(a) of this title, the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) of this section to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

(2) Eligibility limitations

A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

(A) such program has operated for at least 1 year; or

(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

(3) Areas of focus

Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (H).

(A) Early intervention

Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

(B) Aging

Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

(C) Community services

Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community mem-

¹ See References in Text note below.

bers, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

(D) Positive behavioral supports

Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

- (i) address ethical and legal principles and standards, including the role of personal and cultural values in designing assessments and interventions;
- (ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;
- (iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;
- (iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;
- (v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;
- (vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and
- (vii) address techniques for evaluating the outcomes of interventions.

(E) Assistive technology services

Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

(F) Americans with Disabilities Act

Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

(G) Community transition

Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 1425(e)¹ of title 20, where such State transition projects exist.

(H) Other areas

Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

(4) Courses, traineeships and fellowships

Grants under this subsection may be used by university affiliated programs to—

- (A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and
- (B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

(5) Prohibited activities

Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a) of this section. Such grants shall not be used in a manner inconsistent with section 14403 of this title.

(6) Criteria

Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

(A) Application

An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

- (i) competency and value based;
- (ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

(B) General project requirements

Training projects under this subsection shall—

(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 6063(d) of this title and the State Developmental Disabilities Council;

(ii) be conducted in consultation with the consumer advisory committee described in section 6063(d) of this title and the State Developmental Disabilities Council;

(iii) be integrated into the appropriate university affiliated program and university curriculum;

(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

(v) to the extent practical, be conducted in environments where services are actually delivered;

(vi) to the extent possible, be interdisciplinary in nature;

(vii) utilize strategies to recruit and train members from racial and ethnic minority backgrounds and individuals with disabilities; and

(viii) address the issue of cultural competence in the training provided.

(c) Supplemental awards

From amounts appropriated under section 6066(a) of this title, the Secretary may make grants to university affiliated programs receiving grants under subsection (a) of this section to support one or more of the following activities:

(1) The provision of interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals with developmental disabilities, family members of such individuals, professionals, volunteers, or other personnel to enable such individuals, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b) of this section.

(2) The conduct of an applied research program designed to produce more efficient and effective methods for the delivery of services to individuals with developmental disabilities, and the training of professionals, paraprofessionals, and family members who provide such services.

(d) Feasibility studies

From amounts appropriated under section 6066(a) of this title, the Secretary may make a grant to a university or a public or nonprofit entity which is associated with, or is an integral part of, a college or university, to study the feasibility of establishing a university affiliated

program. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center.² The amount of a grant under this subsection may not exceed \$35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program.

(Pub. L. 88-164, title I, §152, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2681; amended Pub. L. 100-146, title IV, §402, Oct. 29, 1987, 101 Stat. 853; Pub. L. 101-496, §17, Oct. 31, 1990, 104 Stat. 1200; Pub. L. 103-230, title IV, §403, Apr. 6, 1994, 108 Stat. 320; Pub. L. 105-12, §9(l)(3), Apr. 30, 1997, 111 Stat. 28.)

REFERENCES IN TEXT

Section 6064(a) of this title, referred to in subsec. (a), was amended generally by Pub. L. 103-230, title IV, §405, Apr. 6, 1994, 108 Stat. 326, and, as so amended, no longer contains provisions authorizing appropriations for this section. See section 6066(a) of this title.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3)(F), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§1201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Section 1425 of title 20, referred to in subsec. (b)(3)(G), was repealed by Pub. L. 105-17, title II, §203(c), June 4, 1997, 111 Stat. 157.

PRIOR PROVISIONS

A prior section 6062, Pub. L. 88-164, title I, §132, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317; amended Pub. L. 94-103, title I, §110(b)-(e)(1), title III, §302(b)(1), Oct. 4, 1975, 89 Stat. 489, 490, 506; Pub. L. 94-278, title XI, §1107(a) Apr. 22, 1976, 90 Stat. 416; Pub. L. 95-602, title V, §510(b), Nov. 6, 1978, 92 Stat. 3010, related to allotments to States, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6025 of this title.

AMENDMENTS

1997—Subsec. (b)(5). Pub. L. 105-12 inserted at end “Such grants shall not be used in a manner inconsistent with section 14403 of this title.”

1994—Pub. L. 103-230, §403(a), reenacted section catchline without change.

Subsec. (a). Pub. L. 103-230, §403(b)(1), inserted heading and in text substituted “6061 of this title. Grants may be awarded for a period not to exceed 5 years.” for “6001(18) of this title.”

Subsec. (b). Pub. L. 103-230, §403(b)(2), amended subsec. (b) generally, inserting heading and in text substituting provisions directing making of grants to support various training projects and relating to eligibility limitations, areas of focus, courses, traineeships and fellowships, prohibited activities, and criteria to which grants are subject for provisions directing making of grants to support various training projects and relating to purposes of various grants.

Subsec. (c). Pub. L. 103-230, §403(b)(3)(A), inserted heading and in text substituted “section 6066(a) of this title” for “section 6064(b) of this title” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-230, §403(b)(3)(B), substituted “interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals” for “service-related training to persons”, “individuals” for “persons” in two places, and “integration and inclusion into the community of individuals with developmental

²So in original. The words “or center” probably should not appear. See 1994 Amendment note below.

disabilities and not otherwise specified in subsection (b) of this section” for “integration into the community of persons with developmental disabilities”.

Subsec. (c)(2). Pub. L. 103-230, § 403(b)(3)(C), substituted “individuals” for “persons” and “family members” for “parents” and struck out “(A)” before “the delivery of services” and “(B)” before “the training of professionals”.

Subsec. (d). Pub. L. 103-230, § 403(b)(5), redesignated subsec. (e) as (d), inserted heading, substituted “section 6066(a) of this title” for “section 6064(a) of this title”, and struck out “or a satellite center” after “a university affiliated program” and “or satellite center” after “no university affiliated program”.

Pub. L. 103-230, § 403(b)(4), struck out subsec. (d) which read as follows: “From amounts appropriated under section 6064(a) of this title, the Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. A satellite center which receives a grant under this section may engage in the activities described in subparagraph (A), (B), or (C) of section 6001(18) of this title and may compete for grants under subsections (b) and (c) of this section.”

Subsec. (e). Pub. L. 103-230, § 403(b)(5)(A), redesignated subsec. (e) as (d).

Subsecs. (f), (g). Pub. L. 103-230, § 403(b)(6), struck out subsecs. (f) and (g) which read as follows:

“(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

“(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

“(1) such program has operated for at least 1 year;

or

“(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.”

1990—Subsec. (b)(1)(A). Pub. L. 101-496, § 17(1)(A)–(C), struck out “sufficient size and scope” after “grants of”, substituted “community-based” for “and community-based”, and inserted provision before period at end including programs described in pars. (5), (6), and (7).

Subsec. (b)(1)(B) to (F). Pub. L. 101-496, § 17(1)(D)–(F), added subpars. (B) to (E), redesignated former subpar. (C) as (F), and struck out former subpar. (B) which read as follows: “The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.”

Subsec. (b)(5) to (7). Pub. L. 101-496, § 17(2), added pars. (5) to (7).

Subsecs. (f), (g). Pub. L. 101-496, § 17(3), added subsecs. (f) and (g).

1987—Subsec. (a). Pub. L. 100-146, § 402(a), substituted “section 6064(a) of this title” for “section 6064 of this title”, “programs” for “facilities”, and “section 6001(18) of this title” for “section 6001(13) of this title”.

Subsec. (b). Pub. L. 100-146, § 402(b)(1), (3), added subsec. (b) and struck out former subsec. (b) which authorized additional grants and specified activities for which such grants could be used.

Subsec. (c). Pub. L. 100-146, § 402(b)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-146, § 402(b)(1), (2), redesignated former subsec. (c) as (d), substituted “From amounts appropriated under section 6064(a) of this

title, the” for “The” and “section 6001(18) of this title and may compete for grants under subsections (b) and (c) of this section” for “section 6001(13) of this title”, and struck out former subsec. (d) which related to limitations on satellite center grants.

Subsec. (e). Pub. L. 100-146, § 402(b)(4), added subsec. (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6001, 6063, 6064, 6066 of this title.

§ 6063. Applications

(a) In general

No grants may be made under section 6062(a) of this title unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.

(b) Standards

Not later than 12 months after April 6, 1994, the Secretary shall establish by regulation standards for university affiliated programs. Such standards shall reflect the special needs of all individuals with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 6061 of this title.

(c) Assurances

The application under subsection (a) of this section shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

(1) the making of the grant will—

(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

(B) be used to supplement and, to the extent practicable, increase the level of such funds;

(2)(A) the applicant's program is in full compliance with the standards established under subsection (b) of this section, or

(B)(i) the applicant will make substantial progress toward bringing the program into compliance with such standards, and (ii) the

program will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (b) of this section, whichever is later, fully comply with such standards;

(3) the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this subchapter will be protected consistent with section 6009 of this title (relating to rights of individuals with developmental disabilities);

(4) the activities conducted under this subchapter are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 6022 of this title; and

(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Developmental Disabilities Council of the State in which the program will be conducted.

(d) Consumer advisory committee

The Secretary shall only make grants under section 6062(a) of this title to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers. The consumer advisory committee shall reflect the racial and ethnic diversity of the geographic area served by the university affiliated program.

(e) Federal share

(1) In general

The Federal share of any project to be provided through grants under this subchapter may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

(2) Project expenditures

For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this subchapter.

(f) Peer review

(1) In general

The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subchapter

by peer review groups established under paragraph (4), including on-site visits or inspections as necessary.

(2) Regulations

Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience and training, are highly qualified to assess the comparative quality of applications for assistance.

(3) Approval

(A) In general

The Secretary may approve an application under this subchapter only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

(B) Applicability

This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.

(4) Establishment of peer review groups

The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

(A) the provisions of title 5 concerning appointments to the competitive service;

(B) the provisions of chapter 51, and subchapter III of chapter 53 of title 5 concerning classification and General Schedule pay rates;

establish such peer review groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

(5) Waivers of approval

The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.

(g) Review by other Federal agencies

The Secretary shall establish such a process for the review of applications for grants under section 6062(a) of this title as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.

(Pub. L. 88-164, title I, §153, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2682; amended Pub. L. 100-146, title IV, §403, Oct. 29, 1987, 101 Stat. 855; Pub. L. 101-496, §18, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103-230, title IV, §404, Apr. 6, 1994, 108 Stat. 324.)

REFERENCES IN TEXT

Provisions of title 5 governing appointments in competitive service, referred to in subsec. (f)(4)(A), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 6063, Pub. L. 88-164, title I, §133, formerly §134, as added Pub. L. 91-517, title I, §101(b), Oct.

30, 1970, 84 Stat. 1319; renumbered §133 and amended Pub. L. 94-103, title I, §§110(e)(2), 111, title III, §302(a), (b)(2), Oct. 4, 1975, 89 Stat. 490, 506; Pub. L. 95-602, title V, §511, Nov. 6, 1978, 92 Stat. 3011, related to State plans, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6022 of this title.

AMENDMENTS

1994—Pub. L. 103-230, § 404(a), reenacted section catchline without change.

Subsec. (a). Pub. L. 103-230, § 404(b)(4), (5), added subsec. (a) and redesignated former subsec. (a) as (b).

Pub. L. 103-230, § 404(b)(1), inserted heading and in text substituted “Not later than 12 months after April 6, 1994” for “Not later than six months after October 19, 1984”, “individuals” for “persons”, and “section 6061 of this title” for “section 6001(18) of this title”.

Subsec. (b). Pub. L. 103-230, § 404(b)(4), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Pub. L. 103-230, § 404(b)(2)(A), inserted heading and in introductory provisions substituted “The application under subsection (a) of this section” for “No grants may be made under section 6062(a) of this title unless an application therefor is submitted to, and approved by, the Secretary. Such an application”.

Subsec. (b)(1). Pub. L. 103-230, § 404(b)(2)(B), restructured par. so that provisions of (A) and (B) appear as separate subpars. and substituted “individuals” for “persons” in two places in subpar. (A).

Subsec. (b)(2). Pub. L. 103-230, § 404(b)(2)(C), substituted “subsection (b) of this section” for “subsection (a) of this section” in subpars. (A) and (B)(ii).

Subsec. (b)(3). Pub. L. 103-230, § 404(b)(2)(D), substituted “individuals” for “persons” in two places, “services” for “treatment, services, or habilitation”, and “rights of individuals with developmental disabilities” for “rights of the developmentally disabled”.

Subsec. (b)(5). Pub. L. 103-230, § 404(b)(2)(E), substituted “State Developmental Disabilities Council” for “State Planning Council” and struck out “or the satellite center is or will be located” after “will be conducted”.

Subsec. (c). Pub. L. 103-230, § 404(b)(3), (4), redesignated subsec. (b) as (c) and struck out former subsec. (c) which read as follows: “The Secretary shall establish such a process for the review of applications for grants under section 6062(a) of this title as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant’s program reviews the application.”

Subsec. (d). Pub. L. 103-230, § 404(b)(3), (6), added subsec. (d) and struck out former subsec. (d), which related to distribution of grant amounts based upon amount of appropriations and applications for additional university affiliated programs or satellite centers.

Subsec. (e). Pub. L. 103-230, § 404(b)(4), (6), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 103-230, § 404(b)(4), (7)(A), redesignated subsec. (e) as (f) and inserted heading.

Subsec. (f)(1). Pub. L. 103-230, § 404(b)(7)(A), (B), inserted heading and in text struck out after first sentence “Such peer review shall be coordinated, as appropriate, with the peer review described in section 6062(b)(1)(D) of this title.”

Subsec. (f)(2). Pub. L. 103-230, § 404(b)(7)(C), inserted heading and in text substituted “experience and training” for “experience or training”.

Subsec. (f)(3). Pub. L. 103-230, § 404(b)(7)(D), amended par. (3) generally, inserting par. and subpar. headings.

Subsec. (f)(4). Pub. L. 103-230, § 404(b)(7)(E), inserted heading and realigned margins of subpars. (A) and (B).

Subsec. (f)(5). Pub. L. 103-230, § 404(b)(7)(F) inserted heading.

Subsec. (g). Pub. L. 103-230, § 404(b)(8), added subsec. (g).

1990—Subsec. (d)(3)(A). Pub. L. 101-496, § 18(1)(A), (B), substituted “1991, 1992, and 1993” for “1988, 1989, and 1990” and inserted at end “The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within

the same State university system or two or more universities which are otherwise unrelated.”

Subsec. (d)(3)(B). Pub. L. 101-496, § 18(1)(C), (D), substituted “1990” for “1987” and inserted at end “If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.”

Subsec. (e)(1). Pub. L. 101-496, § 18(2), struck out “by regulation” after “Secretary shall” and inserted before period at end “, including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 6062(b)(1)(D) of this title”.

1987—Subsec. (a). Pub. L. 100-146, § 403(a), substituted “programs” for “facilities”, “all persons” for “persons”, and “section 6001(18)” for “section 6001(13)”.

Subsec. (b). Pub. L. 100-146, § 403(b), in introductory provisions, substituted “section 6062(a)” for “section 6062”, in par. (2), substituted “program” for “facility” in subpar. (A), “will make” for “is making” and “program” for “facility” in subpar. (B)(i), and “program” for “facility” in subpar. (B)(ii), and added pars. (4) and (5).

Subsec. (c). Pub. L. 100-146, § 403(c), substituted “section 6062(a)” for “section 6062” and “program” for “facility”.

Subsec. (d)(1). Pub. L. 100-146, § 403(d)(1)-(4), substituted “section 6064(a)” for “section 6064”, “program” for “facility”, “\$200,000” for “\$175,000”, and “\$150,000” for “\$75,000”.

Subsec. (d)(2). Pub. L. 100-146, § 403(d)(1), (2), substituted “section 6064(a)” for “section 6064” and “program” for “facility”.

Subsec. (d)(3). Pub. L. 100-146, § 403(d)(5), added par. (3).

Subsec. (e). Pub. L. 100-146, § 403(e), added subsec. (e).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6062, 6064 of this title.

§ 6064. Priority for grant awards

(a) In general

In awarding and distributing grant funds under this subchapter, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

(1) Existing State university affiliated programs

First priority shall be given, with respect to the provision of grant awards under section 6062(a) of this title in the amount of \$200,000, to an existing State university affiliated program that meets the requirements under section 6063 of this title.

(2) Unserved States

Second priority shall be given, with respect to the provision of grant awards under section 6062(a) of this title in the amount of \$200,000, to a university or public or nonprofit entity associated with a college or university that

desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of April 6, 1994.

(3) Training projects in all university affiliated programs

Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 6062(a) of this title and that meets the eligibility limitations under section 6062(b) of this title to the establishment of training projects under section 6062(b) of this title in the amount of \$90,000 in each such program.

(4) Increased funding for training projects

Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 6062(b) of this title to \$100,000.

(5) Increased funding for university affiliated programs

Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 6062(a) of this title to \$250,000.

(6) Additional training

Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 6062(a) of this title to provide additional training under subsection (b) or (c) of section 6062 of this title within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 6062(a) of this title. All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

(b) Additional programs

For purposes of making grants under subsection (a)(6) of this section, the Secretary shall consider applications for grants for university affiliated programs—

- (1) for States that are currently underserved by a university affiliated program; and
- (2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

(c) Single application

When every State is served by a university affiliated program under section 6062(a) of this title in the amount of \$200,000 and every such program has been awarded a training grant under section 6062(b) of this title in the amount of \$90,000, the Secretary may accept applications under such sections in a single application.

(Pub. L. 88-164, title I, §154, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2683; amended

Pub. L. 100-146, title IV, §404, Oct. 29, 1987, 101 Stat. 857; Pub. L. 101-496, §19, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103-230, title IV, §405, Apr. 6, 1994, 108 Stat. 326.)

PRIOR PROVISIONS

A prior section 6064, Pub. L. 88-164, title I, §134, formerly §137, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; amended Pub. L. 93-45, title III, §301(c), June 18, 1973, 87 Stat. 95; renumbered §134 and amended Pub. L. 94-103, title I, §§101(b), 113, title III, §302(a), Oct. 4, 1975, 89 Stat. 486, 492, 506; Pub. L. 94-278, title XI, §1107(b), (c), Apr. 22, 1976, 90 Stat. 416; Pub. L. 95-602, title V, §514(b), Nov. 6, 1978, 92 Stat. 3017, related to payments to the States for planning, administration, and services, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6026 of this title.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally. Prior to amendment, section read as follows:

“(a) For the purpose of grants under subsections (a), (d), and (e) of section 6062 of this title, there are authorized to be appropriated \$11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

“(b) For the purpose of grants under section 6062(b) and 6062(c) of this title, there are authorized to be appropriated \$5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

“(c) The Secretary may use funds appropriated under subsection (a) of this section for the purposes described in subsection (b) of this section.”

1990—Pub. L. 101-496 amended section generally. Prior to amendment, section read as follows:

“(a) For the purpose of grants under subsections (a), (d), and (e) of section 6062 of this title, there are authorized to be appropriated \$9,400,000 for fiscal year 1988, \$10,200,000 for fiscal year 1989, and \$11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

“(b) For the purpose of grants under sections 6062(b) and 6062(c) of this title, there are authorized to be appropriated \$4,500,000 for fiscal year 1988, \$5,000,000 for fiscal year 1989, and \$5,500,000 for fiscal year 1990.

“(c) The Secretary may use funds appropriated under subsection (a) of this section for the purposes described in subsection (b) of this section.

“(d) Of the amounts appropriated under subsection (b) of this section, at least 75 percent shall be used for grants under section 6062(b) of this title and the remainder shall be used for grants under section 6062(c) of this title.”

1987—Pub. L. 100-146 amended section generally. Prior to amendment, section read as follows: “For the purpose of making grants under section 6062 of this title, there are authorized to be appropriated \$9,000,000 for fiscal year 1985, \$9,600,000 for fiscal year 1986, and \$10,100,000 for fiscal year 1987.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

§ 6065. “State” defined

For purposes of this subchapter, the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

(Pub. L. 88-164, title I, §155, as added Pub. L. 103-230, title IV, §406, Apr. 6, 1994, 108 Stat. 327.)

PRIOR PROVISIONS

A prior section 6065, Pub. L. 88-164, title I, §135, formerly §138, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323; renumbered §135 and amended Pub. L. 94-103, title I, §§110(e)(3), 114, title III, §302(a), (b)(3), Oct. 4, 1975, 89 Stat. 490, 493, 506; Pub. L. 95-602, title V, §514(c), Nov. 6, 1978, 92 Stat. 3017, related to withholding of payments to States for planning, administration, and services, prior to the general amendment of this chapter by Pub. L. 98-527. See section 6027 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6001 of this title.

§ 6066. Authorization of appropriations**(a) In general**

For the purpose of making grants under subsections (a), (b), (c), and (d) of section 6062 of this title, there are authorized to be appropriated \$19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

(b) Limitation

With respect to peer review or other activities directly related to peer review, the Secretary may not use—

(1) for fiscal year 1994, more than \$300,000 of the funds made available under subsection (a) of this section for such review or such other activities; and

(2) for any succeeding fiscal year, more than the amount of the funds made available under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.

(Pub. L. 88-164, title I, §156, as added Pub. L. 103-230, title IV, §406, Apr. 6, 1994, 108 Stat. 327; amended Pub. L. 104-183, §4, Aug. 6, 1996, 110 Stat. 1694.)

PRIOR PROVISIONS

Prior sections 6066 to 6068 were omitted in the general amendment of this chapter by Pub. L. 98-527.

Section 6066, Pub. L. 88-164, title I, §136, formerly §140, as added Pub. L. 91-517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1324; renumbered §136 and amended Pub. L. 94-103, title I, §115, title III, §302(a), (b)(4), Oct. 4, 1975, 89 Stat. 493, 506, related to nonduplication of payments. See section 6028 of this title.

Section 6067, Pub. L. 88-164, title I, §137, formerly §141, as added and renumbered §137, Pub. L. 94-103, title I, §116, title III, §302(a), Oct. 4, 1975, 89 Stat. 493, 506; amended Pub. L. 95-602, title V, §512, Nov. 6, 1978, 92 Stat. 3015, related to State Planning Councils. See section 6024 of this title.

Section 6068, Pub. L. 88-164, title I, §138, formerly §142, as added, renumbered §138, and amended Pub. L. 94-103, title I, §117, title III, §302(a), (b)(5), Oct. 4, 1975, 89 Stat. 494, 506, related to appeals, petitions, record, jurisdiction of courts of appeals, conclusiveness of findings, review by the Supreme Court, and stay of administrative action. See section 6029 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-183 substituted “1995 through 1999” for “1995 and 1996”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6062 of this title.

SUBCHAPTER V—PROJECTS OF NATIONAL SIGNIFICANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6006, 6022, 14403 of this title.

§ 6081. Purpose

The purpose of this subchapter is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

(1) data collection and analysis;

(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

(A) technical assistance for the development of information and referral systems;

(B) educating policymakers;

(C) Federal interagency initiatives;

(D) the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

(E) transition of youth with developmental disabilities from school to adult life; and

(F) special pilots and evaluation studies to explore the expansion of programs under subchapter II of this chapter to individuals with severe disabilities other than developmental disabilities.

(Pub. L. 88-164, title I, §161, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2683; amended Pub. L. 100-146, title V, §501(a), Oct. 29, 1987, 101 Stat. 857; Pub. L. 101-496, §20, Oct. 31, 1990, 104 Stat. 1203; Pub. L. 103-230, title V, §502, Apr. 6, 1994, 108 Stat. 328.)

PRIOR PROVISIONS

A prior section 6081, Pub. L. 88-164, title I, §145, as added Pub. L. 94-103, title I, §105, Oct. 4, 1975, 89 Stat. 495; amended Pub. L. 95-602, title V, §§504(b)(2), (3), 513, Nov. 6, 1978, 92 Stat. 3006, 3016; Pub. L. 96-32, §3(a), July 10, 1979, 93 Stat. 82; Pub. L. 97-35, title IX, §913, Aug. 13, 1981, 95 Stat. 563; Pub. L. 98-221, title III, §305, Feb. 22, 1984, 98 Stat. 35, set forth grant authority for special projects grants, prior to the general amendment of this chapter by Pub. L. 98-527. See sections 6082 and 6083 of this title.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally. Prior to amendment, section read as follows: “The purpose of this subchapter is to provide for grants and contracts for projects of national significance to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities, and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minor-

ity participation in public and private sector initiatives in developmental disabilities.”

1990—Pub. L. 101-496 inserted before period at end “, and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities”.

1987—Pub. L. 100-146 substituted “and contracts for projects of national significance” for “for demonstration projects”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

§ 6082. Grant authority

(a) In general

The Secretary—

(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs that includes data on the participation of individuals from racial and ethnic minority backgrounds; and

(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under subchapter II of this chapter, protection and advocacy systems under subchapter III of this chapter, and university affiliated programs under subchapter IV of this chapter, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under subchapters II, III, and IV of this chapter; and

(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families that are culturally competent and that improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families;

(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are from racial and ethnic minority backgrounds including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under subchapters II, III, and IV of this chapter, and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities; and

(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life.

(b) Investigations

(1) In general

Not later than April 1, 1994, there shall be a special initiative to support grants to investigate the expansion of subchapter II activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

(2) Application

No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c) of this section.

(c) Application and other grant requirements

No grant may be made under subsection (a) of this section unless—

(1) an application has been submitted to the Secretary in such form, in such manner, and

containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

(2) each State in which the applicant's project will be conducted has a State plan approved under section 6022 of this title;

(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this subchapter will be protected consistent with section 6009 of this title (relating to the rights of individuals with developmental disabilities);

(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds;

(5) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application; and

(6) the applicant provides assurances that the grant will not be used in a manner inconsistent with section 14403 of this title.

(d) Priorities for grants

Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this subchapter and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.

(e) Grant payments

Payments under grants under subsection (a) of this section may be made in advance or by way of reimbursement and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) of this section shall be determined by the Secretary, except as otherwise provided under section 6083 of this title.

(f) List of recipients

Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b) of this section, including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this subchapter for such fiscal year.

(Pub. L. 88-164, title I, §162, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2683; amended Pub. L. 100-146, title V, §502, Oct. 29, 1987, 101 Stat. 857; Pub. L. 101-496, §21, Oct. 31, 1990, 104 Stat. 1204; Pub. L. 103-230, title V, §503, Apr. 6, 1994, 108 Stat. 328; Pub. L. 105-12, §9(7)(4), Apr. 30, 1997, 111 Stat. 28.)

AMENDMENTS

1997—Subsec. (c)(6). Pub. L. 105-12 added par. (6).

1994—Pub. L. 103-230, §503(a), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103-230, §503(b)(1), inserted heading and amended text generally. Prior to amendment, text read as follows: "The Secretary may make grants to and enter into contracts with public or nonprofit private entities for—

"(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness, and pursue Federal inter-agency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under subchapter IV of this chapter, and protection and advocacy system described in section 6042 of this title.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph."

Subsec. (b). Pub. L. 103-230, §503(b)(5), (6), added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 103-230, §503(b)(2), inserted heading and amended text generally. Prior to amendment, text read as follows: "No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 6022 of this title, and unless the application provides assurances that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under projects assisted under this subchapter will be protected consistent with section 6009 of this title (relating to the rights of the developmentally disabled). The Secretary shall provide to the State Planning Council in such State an opportunity to review the application for such project and to submit its comments on the application."

Subsec. (c). Pub. L. 103-230, §503(b)(5), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Pub. L. 103-230, §503(b)(3), inserted heading.

Subsec. (d). Pub. L. 103-230, §503(b)(5), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 103-230, §503(b)(4), inserted heading and in text inserted ", except as otherwise provided under section 6083 of this title" before period at end of second sentence.

Subsec. (e). Pub. L. 103-230, §503(b)(5), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 103-230, §503(b)(7), added subsec. (f).

1990—Subsec. (a)(1). Pub. L. 101-496, §21(1), inserted "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,".

Subsec. (a)(2). Pub. L. 101-496, §21(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expand-

ing or otherwise improving the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under subchapter IV of this chapter, and protection and advocacy services relating to the State protection and advocacy system described in section 6042 of this title.”

1987—Subsec. (a). Pub. L. 100-146, §502(a)(1), (2), inserted “and enter into contracts with” in introductory provisions, inserted par. (1), and struck out former par. (1) which read as follows: “demonstration projects—

“(A) which are conducted in more than one State,

“(B) which involve the participation of two or more Federal departments or agencies, or

“(C) which are otherwise of national significance, and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including Native Americans, Native Hawaiians, and other underserved groups); and”.

Subsec. (a)(2). Pub. L. 100-146, §502(a)(3), inserted “the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under subchapter IV of this chapter, and” after “otherwise improving”.

Subsec. (b). Pub. L. 100-146, §502(b), substituted “in such State an opportunity” for “for each State in which an applicant’s project will be conducted an opportunity”.

Subsecs. (c), (d). Pub. L. 100-146, §502(c), added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6083 of this title.

§ 6083. Authorization of appropriations

(a) In general

To carry out this subchapter, there are authorized to be appropriated \$4,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1999.

(b) Limitations

(1) Projects of national significance

At least 8 percent, but in no event less than \$300,000, of the amounts appropriated pursuant to subsection (a) of this section shall be used to carry out the provisions of section 6082(a)(1)(B) of this title.

(2) Investigations

(A) In general

The additional authority to fund projects under section 6082(b) of this title shall not be construed as requiring the Secretary to supplant funding for other priorities described in this subchapter.

(B) Time line for funding

If amounts are available to carry out subparagraphs (A), (B), and (C) of section

6082(b)(1) of this title, the Administration shall provide funding to carry out such subparagraphs not later than May 1 of the fiscal year in which such funds become available.

(3) Programmatic reviews or other administrative activities

The Secretary may not use the funds made available under subsection (a) of this section for programmatic reviews as prescribed by regulation or other administrative activities under subchapters II, III, and IV of this chapter.

(4) Technical assistance for protection and advocacy systems

If technical assistance to improve the effectiveness of protection and advocacy systems under subchapter III of this chapter is provided under section 6042(c)(5) of this title—

(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this subchapter; and

(B) the amount set aside for technical assistance under section 6082(a)(1)(B) of this title shall be proportionally reduced.

(Pub. L. 88-164, title I, §163, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2684; amended Pub. L. 100-146, title V, §503, Oct. 29, 1987, 101 Stat. 858; Pub. L. 101-496, §22, Oct. 31, 1990, 104 Stat. 1204; Pub. L. 103-230, title V, §504, Apr. 6, 1994, 108 Stat. 331; Pub. L. 104-183, §5, Aug. 6, 1996, 110 Stat. 1695.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-183 substituted “1995 through 1999” for “1995 and 1996”.

1994—Subsec. (a). Pub. L. 103-230, §504(a), substituted “\$4,000,000 for fiscal year 1994” for “\$3,650,000 for fiscal year 1991” and “fiscal years 1995 and 1996” for “fiscal years 1992 and 1993”.

Subsec. (b). Pub. L. 103-230, §504(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “At least 8 percent, but not less than \$300,000, of the funds appropriated pursuant to the authority of subsection (a) of this section shall be used to carry out the provisions of section 6082(a)(2) of this title.”

1990—Pub. L. 101-496 amended section generally. Prior to amendment, section read as follows:

“(a) To carry out this subchapter, there are authorized to be appropriated \$3,650,000 for fiscal year 1988, \$3,650,000 for fiscal year 1989, and \$3,650,000 for fiscal year 1990.

“(b) Of the amounts appropriated under subsection (a) of this section for any fiscal year, \$600,000 shall be available for grants and contracts under section 6082(a)(1) of this title for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 6082(a)(1) of this title for such projects within 6 months after October 29, 1987.”

1987—Pub. L. 100-146 amended section generally. Prior to amendment, section read as follows: “To carry out this subchapter, there are authorized to be appropriated \$2,700,000 for fiscal year 1985, \$2,800,000 for fiscal year 1986, and \$3,100,000 for fiscal year 1987.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6082 of this title.

CHAPTER 76—AGE DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

- Sec.
6101. Statement of purpose.
6102. Prohibition of discrimination.
6103. Regulations.
 (a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date.
 (b) Nonviolative actions; program or activity exemption.
 (c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected.
6104. Enforcement.
 (a) Methods of achieving compliance with regulations.
 (b) Limitations on termination of, or on refusal to grant or to continue, assistance; disbursement of withheld funds to achiever agencies.
 (c) Advice as to failure to comply with regulation; determination that compliance cannot be secured by voluntary means.
 (d) Report to Congressional committees.
 (e) Injunctions; notice of violations; costs; conditions for actions.
 (f) Exhaustion of administrative remedies.
6105. Judicial review.
 (a) Provisions of other laws.
 (b) Provisions of chapter 7 of title 5; reviewable agency discretion.
6106. Study of discrimination based on age.
 (a) Study by Commission on Civil Rights.
 (b) Public hearings.
 (c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel.
 (d) Report to President and Congress; copies to affected Federal departments and agencies; information and technical assistance.
 (e) Comments and recommendations of Federal departments and agencies; submission to President and Congressional committees.
 (f) Cooperation of Federal departments and agencies with Commission.
 (g) Authorization of appropriations.
6106a. Reports to the Secretary and Congress.
6107. Definitions.

CROSS REFERENCES

Age discrimination in employment, see section 621 et seq. of Title 29, Labor.

Civil rights, Federally assisted programs, see section 2000d et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 290cc-33, 300w-7, 300x-57, 608, 708, 1437aaa-1, 1437aaa-2, 1760, 2000d-7, 3608, 5057, 5309, 6727, 8625, 9918, 10406, 11386, 11394, 12635, 12832, 12872, 12873, 12892, 12893, 12899b, 12899c of this title; title 20 sections 1221, 1231e, 8066; title 29 sections 1577, 2938; title 31 section 6711.

§ 6101. Statement of purpose

It is the purpose of this chapter to prohibit discrimination on the basis of age in programs

or activities receiving Federal financial assistance.

(Pub. L. 94-135, title III, §302, Nov. 28, 1975, 89 Stat. 728; Pub. L. 95-478, title IV, §401(a), Oct. 18, 1978, 92 Stat. 1555; Pub. L. 99-272, title XIV, §14001(b)(4), Apr. 7, 1986, 100 Stat. 329.)

AMENDMENTS

1986—Pub. L. 99-272 struck out “, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)” after “Federal financial assistance”.

1978—Pub. L. 95-478 struck out “unreasonable” before “discrimination”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99-272.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-478 effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as a note under section 3001 of this title.

SHORT TITLE

Section 301 of Pub. L. 94-135 provided that: “The provisions of this title [enacting this chapter] may be cited as the ‘Age Discrimination Act of 1975’.”

§ 6102. Prohibition of discrimination

Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) and section 6103(c) of this title, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(Pub. L. 94-135, title III, §303, Nov. 28, 1975, 89 Stat. 728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6106a of this title.

§ 6103. Regulations

(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date

(1) Not later than one year after the transmission of the report required by section 6106(b) of this title, or two and one-half years after November 28, 1975, whichever occurs first, the Secretary of Health and Human Services shall publish in the Federal Register proposed general regulations to carry out the provisions of section 6102 of this title.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

(i) the forty-five day period specified in section 6106(e) of this title; and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 6106(d) of this title, and with respect to the comments